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Published: 13/11/2017

Document Version

Publisher's PDF, also known as Version of record

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Citation for published version (APA):

James, K., & Leung, J. K-S. (2017). *Sydney's Construction Union Strategy and Immigrant Workers*. (2nd ed.) Kieran James (via Lulu.com).

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Sydney's Construction Union Strategy and Immigrant Workers

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Second edition published by Kieran James, October 2017

ISBN 978-0-244-64295-2 (deluxe hardcover version)

ISBN 978-0-244-04574-6 (hardcover version)

ISBN 978-0-244-04317-9 (plain cover hardcover version)

ISBN 978-0-244-63945-7 (discounted hardcover version)

ISBN 978-0-244-04490-9 (alternative cover paperback version)

ISBN 978-0-244-63931-0 (paperback version)

First edition published by Spire Publishing, May 2010

First edition ISBN 978-1-926635-40-8

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First published in Canada and the UK 2010 by Spire Publishing.

A cataloguing record for the first edition of this book is available from the Library and Archives Canada.

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Kieran James and Jenny Leung

We dedicate this book to our parents Chu-Pang and Man-Ye and Laurie and Eunice, to our children Irvina and Nicoleta, and to Professors Tony Tinker and Aida Sy for continued support of our research agenda.

Author bios (updated for second edition)

Dr Kieran James is a Senior Lecturer in Accounting at the University of the West of Scotland, Paisley, Renfrewshire, Scotland. He was formerly Accounting Professor at University of Fiji from 2013-15. He has published scholarly articles in the following journals: *Accounting Forum*, *Critical Perspectives on Accounting*, *International Journal of Critical Accounting*, *International Journal of Sport Management and Marketing*, *Musicology Australia*, *Pacific Accounting Review*, *Punk & Post Punk*, and *Sporting Traditions*. His main research interests are: accounting education; business ethics education; critical and Marxist perspectives on accounting and the labour process; employment prospects in accounting for minority groups; trade union strategy and immigrant worker issues; Singapore opposition politics and oppositional youth activism; and the sociology of death-metal and punk music scenes.

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The following journal articles are based upon the same fieldwork data as used in this book:

3 Leung, J. K.-S., James, K. and Sujan, A., From building site warriors to Korean church: radical strategic realignment in Sydney's construction union, *International Journal of Economics and Accounting*, Vol. 3, No. 4, 2011, pp. 387-416.

2 Leung, J. K.-S., James, K., Mustata, R. and Bonaci, C., Construction union strategy at the branch level in Sydney: a Roman Catholic perspective, *International Journal of Social Economics*, Vol. 37, No. 9, 2010, pp. 488-511.

1 Leung, J. K.-S. and James, K., From monocultural to multilingual: strategic innovation in an Australian construction union, *Korean Journal of Industrial Relations*, Vol. 20, No. 1, 2010, pp. 135-162.

Acknowledgements

We thank Matthew Haigh (University of Aarhus) and Rex Walsh (freelance accounting lecturer, Sydney) for helpful comments at the time this project was first conceived; Tom Bramble, Mark Bray, Laurie Ferguson MP, Bligh Grant, Brisbane construction lawyer Anthony Gibbs (name changed), Phil Griffiths, Ray Hingst, Laurie James, Yoshiaki Jinnai, former Sydney CFMEU organiser Patrick O'Brien (name changed), Melanie Simms, Ahmad Sujan, Aida Sy, Tony Tinker, Harry Williams, and Shalene Werth for their advice and input on earlier drafts; seminar participants at Monash University, University of Newcastle (Australia) Centre of Employment Relations, and University of Southern Queensland; and conference participants at *Critical Management Studies Conference*, University of Warwick, UK, July 2009, and *4th Audit and Accounting Convergence Conference*, Cluj-Napoca, Romania, November 2009.

We would also like to thank the following CFMEU organisers, members, and supporters for their generous contribution of information and opinions to this research project: Andrew Ferguson, Barry Hemsworth, Rajan Kandasamy, Jin-Wook Kim, Chikmann Koh, Keryn McWhinney, Philip E. Oh, Mansour Razaghi, Hyun-Don (Peter) Shin, Subramaniyan Subbaiya, Mark Hayward (name changed) (former BLF organiser and CFMEU Training Officer), Christopher J. Tolliday, Mal Tulloch, and those industry workers that gave up their time to participate in interviews and focus groups.

Kieran James and Jenny Leung

Disclaimer and warning

The views expressed herein are those of the researchers and are not necessarily the same as those of individual CFMEU organisers, CFMEU leaders, CFMEU members, the CFMEU itself or any of the academics that have provided feedback on earlier versions of this or related works.

Aboriginal and Torres Strait Islander people are warned that this book contains the names of persons who are deceased.

Abstract

This book studies the Sydney (Lidcombe) branch of Australia's CFMEU in an attempt to document and critique its branch level strategy in the year immediately after the removal of the Howard-Costello Government, i.e. November 2007 to November 2008. This 'transitional time', prior to the Rudd-Gillard Government releasing its own plans for workplace relations, was a time of excitement and anticipation in union offices and building sites across the country as people perceived that the balance of power between labour and capital had changed. However, industry participants remained unsure of exactly how far the new government would go in dismantling the repressive workplace laws of its predecessor. CFMEU strategy at the Sydney branch level during this transitional time revolved around a program of 'rebuilding influence' on the building sites. We also document CFMEU strategy in relation to immigrant worker issues, as revealed through several micro-cases, and offer some observations as to how effective the CFMEU's actions were in each case.

Keywords: *BLF; CFMEU; Construction Unions; Immigrant Workers; Industrial Relations; Marxism; Roman Catholicism; Social History; Sydney; Sydney History; Trade Unions; Union Strategy; Western Sydney.*

New Foreword, by Kieran James for the second edition

Please note that, apart from the author biographies, contact details, the anonymizing of one extra interviewee, and a few minor editorial alterations (e.g. “the last 40 years” changed to “the last 50 years” in a few places), this book has not been updated from the first edition which was published through Spire Publishing in May 2010. As far as we are aware key facts were current as at that date but may have changed since then.

Our book reflects the enthusiasm and optimism of the first year of the Rudd Government just before the Global Financial Crisis hit. The time of our field-work (March to May 2008) was a unique and special period.

The Roman Catholic theoretical framework was used because it was interesting and novel. It also reflected the mood of the times when Cardinal George Pell, Catholic Archbishop of Sydney, was very vocal in his criticisms of the Howard Government’s WorkChoices legislation.

Our use of the phrase “Rudd-Gillard Government” in the first edition was strangely prophetic because Gillard took over the Prime Ministership from Rudd via hostile takeover on 24 June 2010 (one month after publication of the first edition).

We want to thank again Andrew Ferguson, Chikmann Koh, and Mal Tulloch for assisting us with access, advice, information, and support. If I remember correctly I first met Andrew on 24 March 2008 and then we did one week of field-work at the CFMEU HQ and building sites in May 2008. The lack of external funding for the project meant we could not stay in Sydney for as long as we would have hoped for. We hope that longer field-work would not have altered our impressions and key conclusions too significantly. Lastly, it was enjoyable to quote Brezhnev (among others) and I hope we shocked a few people!

Best regards,
Kieran James,
Paisley, Renfrewshire,
Scotland PA1 2BE,
26 October 2017.

TABLE OF CONTENTS

1. Introduction...	11
2. A brief history of Australian construction industry trade unionism...	17
3. Theoretical framework – Roman Catholic perspective with respect to issues of union influence, density and reach...	28
4. Theoretical framework – Marxist perspective on immigrant worker issues...	44
5. Building site information campaign visits...	51
6. Focus groups with construction workers...	63
7. Asbestos scare at Merrylands shopping centre extension site...	69
8. The Mr Kim case...	78
9. The Wollongong hotel Chinese workers case...	86
10. The Mr Rajan case...	99
11. Collaboration and partnership between CFMEU and Korean Tilers Association...	106
12. Conclusions...	115
13. Appendix: Essay on relationship between Catholicism and Marxism (previously unpublished)...	123
14. References...	142

Chapter 1

Introduction

The decade and two years of the Howard-Costello conservative government (11 March 1996 to 3 December 2007) was a difficult and challenging time for Australia's trade union movement. The Howard-Costello Government's neo-liberal legislation and ideology imposed many restrictions upon trade union organisers, union members, and union supporters. A major Australian trade union, the Construction Forestry Mining and Energy Union (CFMEU), successor to previous construction industry unions such as the Builders Labourers Federation (BLF) and the Building Workers Industrial Union (BWIU) (Bramble, 2008; Ross, 2004), faced the banning of strikes (striking workers being made subject to hefty fines); the introduction of a government building industry watchdog with substantive powers of surveillance and control; and the right of building company bosses to block union access to building sites.¹

This book studies the Sydney (Lidcombe) branch of Australia's CFMEU in an attempt to document and critique its branch level strategy in the year immediately after the removal of the Howard-Costello Government, i.e. November 2007 to November 2008.² This 'transitional

¹ The actual content of these laws, including the WorkChoices laws of 2006, and their ramifications have been discussed in detail in the industrial relations and labour law literatures and are outside the scope of this book. Elton and Pocock (2008) is a typical qualitative study investigating the implications of WorkChoices on twenty low-paid and vulnerable workers based in Adelaide, South Australia.

² The CFMEU's ongoing ideological and practical struggle with the Australian Building and Construction Commission (ABCC) and the potential trial of CFMEU member Ark Tribe is outside the scope of this book as it reflects the union at a national level squaring off against a national regulator and federal governments (first the Howard-Costello Government and then the Rudd-Gillard Government). Instead

time', prior to the Rudd-Gillard Government releasing its own plans for workplace relations, was a time of excitement and anticipation in union offices and building sites across the country as people perceived that the balance of power between labour and capital had changed. However, industry participants remained unsure of exactly how far the new government would go in dismantling the repressive workplace laws of its predecessor. As Chapters 5 to 7 indicate, CFMEU strategy at the Sydney branch level during this transitional time revolved around a program of 'rebuilding influence' (Simms, 2007, p. 439; Wills and Simms, 2004, p. 66) on the building sites; re-establishing links with workers that were weakened during the Howard-Costello years; and generally educating workers on their legal rights at work and the benefits of union membership.

We use a case study approach using data obtained from internal CFMEU documents and correspondence; interviews with the New South Wales (NSW) State Secretary of the CFMEU Mr Andrew Ferguson, union organisers, one former CFMEU Training Officer (also a former BLF organiser), one former organiser who worked for a number of years at CFMEU Sydney but is now with a white-collar union in the education sector, one construction lawyer at a leading Brisbane law firm, and construction workers; CFMEU official publications; news media stories; and a series of building site visits where the first-mentioned author joined a union team at two construction sites located in Western Sydney. Case study findings are analysed within the context of at least one of our two chosen theoretical frameworks ('Roman Catholic social teaching' and 'Marxism').

this book looks exclusively at union strategy and policies at the branch level in Sydney, New South Wales. In other words, we are more interested in grassroots strategy and our micro-cases deal exclusively with issues that have occurred within the city of Sydney. We are also interested only in interfaces between organisers, members, and employers and not in internal union meetings and happenings.

In the second half of this book, we present a detailed case study of migrant labour in Sydney's construction industry. Using a micro-case approach, employing site visits, access to confidential documents, and detailed interviews/focus groups, we explore how the CFMEU has reinvented itself as a valuable source of assistance for migrant workers in their endeavours to access acceptable wages, decent working conditions, and post-Dickensian standards of worksite safety. Since class struggle ceased to be the construction unions' theoretical and practical guiding principle, during the Hawke Labor Government Accord era of the 1980s, the CFMEU is cast adrift without a suitable theoretical mooring and rationale which it can then on-sell to workers (point made by Mark Hayward (name changed) in first-mentioned author's personal interview with Hayward, a former Training Officer at CFMEU Sydney and former BLF organiser, 6 November 2009). It appears that left-humanitarianism is a key element of the CFMEU's strategy and vision in the present era, effectively replacing the Marxist/communist notion of class struggle. However, despite changes at the level of guiding principles and in terms of dominant discourses, the union is still frequently effective in winning wage claims and hence is clawing back part of what Karl Marx (1976a [1867], 1978 [1885], 1981 [1894]) refers to as 'surplus-value', i.e. unpaid labour time. Leon Trotsky (cited in Mosley, 1972, p. 74) defines class struggle as simply 'the struggle for surplus-product', i.e. surplus-value. Surplus-value arises in the labour process under capitalism because workers work for longer than they need to work to reproduce themselves (Marx, 1976a, p. 300; Trotsky, cited in Mosley, 1972, p. 74). Since wages tend to hover around subsistence levels (which are determined by historical and social factors as much as by physiological factors (Mandel, 1976, p. 66)), workers work for the capitalist for part of the day. The use-value of labour-power *for the capitalist* exceeds its value (Marx, 1976a,

pp. 287, 292-293, 300-301; Trotsky, cited in Mosley, 1972, p. 74). As Marx (1976a, p. 301) writes, '[o]ur capitalist foresaw this situation, and that was the cause of his [*sic*] laughter'. This creates 'surplus-value', which is simply, for Marx, unpaid labour time (Bryer, 1994, 1995, 1999, 2006). Marx (1976a, pp. 1069-1070) writes that the purpose of trade unions is to prevent the individual worker from selling, out of weakness and desperation, her/his labour-power at a price below its value. The value of labour-power is the 'customary level' (Marx, 1976a, p. 1070) of wages established in that branch of industry and it includes the subsistence level for that community and culture at that time (regarding the value of labour-power being a function of the level of civilization and historical-social factors in a country see Marx, 1976a, p. 275). Feather (1963, p. 8) writes that '[a] "fair wage" or a "standard wage" is, often enough, another way of saying the "trade union rate for the job"'.

We document CFMEU strategy in relation to immigrant worker issues, as revealed through several micro-cases (presented in Chapters 8 to 11), and also offer some observations as to how effective the CFMEU's actions were in each case. This book also reveals how exploitation actually occurs within the construction industry in post-modern Australia, a developed western capitalist economy that is a major receiver of migrant labour. We use an essentially Marxist theoretical framework for the immigrant labour section of this book. However, our Marxism does not stand still, patiently waiting for an exact replication of the Russian Revolution of November 1917. Instead, it is a Marxism that explores and aims to understand the modern dynamics of contemporary Australian economy. As Cooper *et al.* (2005, p. 952) point out, '[o]ne element of Marxism ... [is] laying bare the real conditions of the exploited and oppressed [as a means of] polemicising against capitalism'. Marxism retains broad relevance today given that it is essentially a

dialectical critique of the capitalist mode of production and we continue to have a capitalist economy here. The second half of this book reveals the lengths to which some construction companies will go to protect their rate of return on capital (ROCE), or in Marx's words their 'rate of profit', despite the negative effects on the health and wellbeing of the workers concerned. Accounting is implicated by and serves in this process of exploitation, since it is, for Marx, the brain or 'self-consciousness' of the living organism that is capital (Jinnai, 2009; Marx, 1978, p. 211; Tanaka, 2006, pp. 26-27, cited in Jinnai, 2009, p. 10). The 'ideology of accounting' presents a stark distinction between profit (return to owners) and expenses, with the unstated implication of accounting's ideology being that revenues should be maximized and costs should be minimized. Since wages and associated worker costs are 'above-the-line' expenses, the ideology of accounting encourages a process whereby workers are dehumanized and placed far down every list of important stakeholders (Mandel, 1976, p. 65). Corporate Social Responsibility (CSR) has failed to address these issues and remains primarily a naive movement dependent upon and hopeful for kind actions on the part of employers. Our research findings should be of interest to other developed nations receiving significant numbers of migrant workers in construction, e.g. Romanians in Italy and Spain and Bangladeshis, Sri Lankans, and Thais in the Middle East, Hong Kong, and Singapore.³

The remainder of this book is structured as follows. Chapter 2 provides a brief history of Australian construction industry unionism; Chapter 3 presents the 'Roman Catholic social teaching' theory

³ Romanian newspapers in November 2009 report that an estimated 2.8 to 3.2 million Romanians are working outside the country (Anonymous, 2009).

framework, as it pertains to issues of union influence, density and reach; Chapter 4 presents the Marxist theoretical framework as it pertains to immigrant worker issues; Chapters 5 to 11 present a variety of micro-cases; and Chapter 12 concludes. As made clear above, although the two topic areas do overlap, this book can be divided roughly into two halves: union strategy in relation to union density, influence, and reach (Chapters 1 to 3 and Chapters 5 to 7); and union strategy in relation to immigrant worker issues (Chapter 4 and Chapters 8 to 11). The Appendix contains further reflections on the relationship between Catholicism and Marxism and critiques social teaching encyclicals prepared by Cardinal Joseph Ratzinger and Pope John Paul II in the 1980s from a Marxist perspective. This Appendix can be read after finishing Chapter 3, after finishing the whole book, or not at all

Chapter 2

A brief history of Australian construction industry trade unionism

We move on, in this chapter, to briefly discuss the history of trade unionism in the construction industry in Australia, not because history is expected to repeat itself, but to set the context for developments in the industry today.⁴ These developments cannot avoid either building upon or departing from what has gone before. As Marx famously wrote,

“Men [*sic*] make their own history, but they do not make it just as they please; they do not make it under circumstances chosen by themselves, but under circumstances directly encountered, given and transmitted from the past” (Marx, 1994a [1852], p. 188).

The trade union movement in Australia received a great impetus from the ranks of the former unemployed in the 1940s through to the 1970s. The Unemployed Workers’ Movement (UWM), during the Great Depression of the 1930s, was responsible for the radicalization of a generation, with its attempts to prevent eviction of the unemployed from their homes in famous cases such as those in Bankstown, Clovelly, and Newtown in Sydney and Tighes Hill in Newcastle (Mark Hayward, personal interview, 6 November 2009). The Communist Party of Australia (CPA), formed in 1920, saw a surge in membership in the 1930s. The unemployed workers involved in the UWM went on to play important roles as rank and file activists in the construction industry after World War II. Contrary to popular belief, the construction industry

⁴ This section draws in part from a 2.5 hour personal interview by the first-mentioned author with Mark Hayward (name changed), former Training Officer at CFMEU Sydney, at the Wickham Park Hotel in Newcastle (Australia) on 6 November 2009. Hayward worked at CFMEU Sydney from 1998 to 2006 and before that was a BLF organiser and union activist within the construction industry. Other sources include Bramble (2008) and Ross (2004). For a history of trade unionism in the UK see Feather (1963, chaps. 1 and 2).

unions have not always been radical or always led by the rank and file. Mark Hayward (personal interview, 6 November 2009) describes the union leaderships in the immediate post-World War II era as ‘petty criminals’ and ‘old-fashioned stand-over men’, not organized or sophisticated enough to be called gangsters. The BWIU and the BLF were both conservative unions prior to 1961. In the 1950s, the CPA noticed the names of three BLF members on their membership rolls and used these three to form a small rank and file group within the BLF (Mark Hayward, personal interview, 6 November 2009). This rank and file group grew in power until, under Mick McNamara, it took over the leadership of the union at the 1961 elections (Bramble, 2008, p. 48). This was a period of radicalization of trade unions generally in Australia with a rank and file group also talking over the ‘Missos’ (now the Australian Liquor Hospitality and Miscellaneous Workers’ Union) in the mid-1950s (Beasley, 1996).

For the period from the 1950s to the 1980s, construction union divisions reflected the worldwide divisions in the ranks of the communist parties (Ross, 2004, pp. 37, 298; Mark Hayward, personal interview, 6 November 2009). The BWIU remained pro-Moscow whereas the BLF was pro-Beijing. Pat Clancy ruled the BWIU with an iron fist, largely on the basis of left-wing rhetoric and the strength of his own ‘personality cult’. The allegiance of the BLF leadership switched across to the radical CPA breakaway group, the (Maoist) Communist Party of Australia (Marxist-Leninist) [CPA (M-L)] when it was formed in 1963 (Bramble, 2008, p. 22). The BWIU leadership, for its part, was first CPA-connected, and then in 1971 switched over to the newly formed Socialist Party of Australia (SPA) (Bramble, 2008, p. 52). The SPA retained a hard pro-Moscow line after the CPA had shifted its position to humanitarian Eurocommunism following the events of 1956 (Hungary) and 1968

(Czechoslovakia). The denunciation of the Stalin 'personality cult' by the Soviet Union leader Nikita Khrushchev in 1956 and the Soviet's crushing of revolt in Hungary in the same year also led to a decline in CPA membership. From that point onwards, the CPA ceased to be an important force in Australian politics other than through those of its members who were now (increasingly bureaucratized) trade union officials. It eventually disbanded in 1991 and the SPA took over its discarded name five years later, believing itself in any case to be the rightful heirs of the country's communist movement.

After 1983, the BWIU leader, Pat Clancy, personally left the SPA because of that party's opposition to the Australian Labor Party's (ALP) Accord. Because of this, the BWIU leadership, in its final decade of separate existence, ended up to the right of all of the communist parties. Throughout this time, the BLF was far more radical and militant on the building sites than was the BWIU since only the BLF had experienced takeover by the rank and file. Journalist and future New South Wales (NSW) premier, Bob Carr, had famously labelled the BWIU's Clancy as a 'reformist' in a late-1970s article appearing in *The Bulletin*. Much of the conservatism of the BWIU leaders, according to Mark Hayward (personal interview, 6 November 2009), can be traced to fears of a repeat of the fourteen year union deregistration that occurred in the period from 1948-1962.

For its part, the BLF was successful in raising the status of the previously marginalized 'shit-labourers' (including the crane crews, steelfixers, and scaffolders). The 'shit-labourers', as they often used to be disparagingly called on the building sites, traditionally ranked far behind in status to the 'tradesmen' covered by the BWIU. Through strikes and militancy, the BLF won improved working conditions for builders' labourers in the areas of pay rates; working hours; site allowances; site

safety; onsite amenities such as lunch rooms and toilets; the industry long service leave scheme; and the no-work-when-it-rains concession. Builders' labourers found their strategic significance on building sites had risen dramatically in the 1960s with the removal of building height restrictions in Sydney and the fact that builders' labourers physically controlled concrete pours (Bramble 2008, pp. 25, 48; Mark Hayward, personal interview, 6 November 2009). Controlling the concrete pours meant that builders' labourers could very quickly shut down all work on a building site. BLF-sponsored 'sympathy strikes' were especially prevalent. The BLF took advantage of these changes in technology and was a powerful force, especially in its Melbourne power base, feared and respected by building company bosses. The union's membership nearly doubled between 1969 and 1975 (Bramble, 2008, p. 63). The BLF's theoretical commitment to Maoism, mixed in practice with a good dose of Irish-Catholic larrikinism (Ross, 2004, p. 283), meant that the BLF was unlikely to back down in any dispute. Feather (1963, p. 39) writes that '[t]he job of a trade union leader is to look after the interests of his [*sic*] members'. Based on this statement of a trade union's purpose alone, the BLF, from 1961 until the time of its 1994 merger with the BWIU to form the CFMEU, was one of the most successful trade unions in Australia, if not the world.

The BLF in the most populous Australian state of NSW, under Jack Munday, took a third course, by being non-aligned (i.e. to either Moscow or Beijing) Eurocommunists. The NSW BLF experimented with 'green bans', namely boycotts of work on environmentally sensitive or historically important sites in inner Sydney especially in the historical precinct known as 'the Rocks' (Bramble, 2008, p. 56; Ross, 2004, pp. 168-169). Much of the humanitarian tradition of the Sydney CFMEU today is built upon the legacy of the pioneering work of the NSW BLF in

the Munday era.⁵ The NSW BLF supported gay and lesbian, women's, and Aboriginal rights causes (Ross, 2004, p. 17). Famously, the union ordered a stop work on an extension to a Christian residential college at Macquarie University in northern Sydney after hearing that the college had expelled a gay student only because of his sexuality (Bramble, 2008, p. 56). This campaign, like many others organized by the BLF in this era, met with success and the residential college reinstated the student. The Victorian state branch of the BLF, led by Norm Gallagher, was equally as militant as its NSW counterpart but placed less of an emphasis upon social and environmental issues (Bramble, 2008, p. 48). However, some green bans did occur in the Victorian capital city of Melbourne with the demolitions of Regent Theatre and the Queen Victoria Market being prevented by the BLF (Bramble, 2008, p. 56). The Victorian branch launched a hostile and ultimately successful takeover of the NSW branch in the mid-1970s (Bramble, 2008, p. 77) which created ongoing hostility towards the Gallagher faction that continued to simmer right up until BLF deregistration in 1986.

The Hawke ALP Government won the federal election in March 1983 largely based on its election campaign commitment to engage the trade union movement in a strategic partnership termed 'the Accord', a collaborative project designed to ensure that the Australian economy could emerge from the recent recession (Bramble, 2008, pp. 114-122; Ross, 2004, pp. 69-70). Needless to say, a commitment not to make wage claims outside of the centralized wage-fixing system was a key element of the Accord. Most unions became little more than fee-

⁵ Modern social and environmental reporting researchers based in Australia have failed to give sufficient recognition to the pioneering efforts of the 1970s NSW BLF in producing a more humane society. These researchers are looking to the companies for efforts in these areas which is probably the wrong place to look (especially in industries such as construction). They should look towards trade-unions. As Feather (1963, p. 104) writes, '[t]rade unions are not businesses or companies and are not run on the basis of cold-blooded accountancy'.

collecting machines during this period and suffered a resultant loss of goodwill and grassroots support. Acceptance of the Accord by the BWIU and BLF leaderships marked the formal abandonment of class struggle as the guiding principle of the construction industry unions, although the BLF accepted the Accord with much less enthusiasm than did the BWIU (Bramble, 2008, p. 119; Mark Hayward, personal interview, 6 November 2009). Writing from a Marxist perspective, University of Queensland Industrial Relations Senior Lecturer Tom Bramble (2008, p. 119) categorizes the leadership of the 'left-wing unions' such as the Australian Metal Workers' Union (now the Australian Manufacturing Workers' Union) and the BWIU as 'an intermediary layer between capital and labour and committed ultimately to the capitalist order'. The BLF was deregistered as a legal trade union in 1986, after it became progressively unwilling to accept the decline in real worker wages that followed the Accord. BLF members were forcibly moved into the BWIU. The BLF continued on bravely for several years after deregistration, especially in its traditional power base in Victoria. It finally admitted defeat when its deregistration was extended for five more years in 1991, and leading BLF organiser John Cummins began to press for inclusion in a new industry super-union that the BWIU had already taken steps to bring about (Ross, 2004, p. 256). Mark Hayward alleges (personal interview, 6 November 2009) that the BWIU 'aided and abetted' the demise of the BLF at the hands of State and Federal Governments.

The amalgamation of the BWIU and the BLF's 'last remnant' was part of a broader consolidation of industry unions whereby all of the smaller unions representing specific crafts, with the exception of the electricians, merged, by choice or by coercion, to form the CFMEU. The dominant culture of the CFMEU, since its official beginning in March 1994, has been that of the BWIU, especially in NSW. The NSW branch

has also been closely linked to the NSW ALP with State Secretary Andrew Ferguson being a son of NSW deputy premier Jack, himself a BWIU executive, and brother of current Federal MPs Martin and Laurie. Mark Hayward claims (personal interview, 6 November 2009) that the CFMEU in NSW prior to the 2007 federal election was being run 'increasingly like a sub-branch of the ALP' with its commitments to fighting the WorkChoices legislation through peaceful means culminating in exhortations to its members and supporters to vote ALP at the ballot box. The question facing the CFMEU is, given its militant history and Communist Party influences in the area of its theory and guiding principles, what will replace class struggle as its fundamental reason-for-being? The best suggestion at the moment appears to be left-humanitarianism especially in cases involving relatively powerless migrant workers whose cases can be boosted by being bankrolled by the organizational power and centralized strength of the NSW CFMEU. Mark Hayward correctly states (personal interview, 6 November 2009) that we must evaluate the strategies of the present leadership of the Sydney CFMEU *in the context of the industry union history that they are building upon*. He recognizes that history never repeats and we cannot simply hope for a return to the golden years of construction industry unionism. However, Hayward suggests that, whilst we cannot rebuild the past, we can retain some 'features of the past' (personal interview, 6 November 2009), such as the bottom-up culture of the NSW BLF in the Munday era and that union's emphasis upon the rank and file. Overall Hayward rates the performance of the CFMEU in recent times as 'fair at best', claiming, controversially (and speaking as an old-time Marxist), that 'Che Guevara would spit in the face of the NSW CFMEU'. However, Hayward ranks Ferguson as 'excellent' in the areas of 'overseas' (i.e. statesmanship on behalf of the CFMEU overseas and

statements and actions in relation to overseas issues) and ‘solidarity’. This includes an ‘excellent’ rating in regards his work with Sydney’s migrant communities, in relation to which he has experienced sustained opposition from senior people within his union. Hayward expresses a personal hope (personal interview, 6 November 2009) that Ferguson will use the bureaucratic and centralized nature of the NSW CFMEU not as an end in itself, nor as a means to consolidate a power base, but as a means to push through and assist the cases of exploited migrant workers.

In relation to the CFMEU’s approach to Sydney’s migrant worker communities, we find that the CFMEU has repositioned itself strategically as an innovative organization with a long-term commitment to the education and support of migrant workers. Although Australia opened itself up to increased migration after 1940, including migration from the countries of southern and eastern Europe (especially from Greece, Hungary, Italy, and the former Yugoslavia), Bramble (2008, p. 26) writes that, beyond tokenism, Australian unions have not done much in terms of broadening the ethnic base of union leaders, organisers, and shop stewards, or in serving the needs of the migrant workers. As an example, Bramble (2008, p. 26) points out that the Victorian branch of the Vehicle Builders Employees’ Federation (VBEF) had 14,000 members in 1958, including 2,240 Italians and 1,960 Greeks, but it had only one Italian and five Greek shop-stewards. However, contrary to this, the history book of the Federated Miscellaneous Workers Union (FMWU, or the ‘Missos’) claims that in the 1950s the Victorian branch produced foreign-language publications, *Il Progresso* and *Syndicalistis*, and had foreign-language translations of certain articles appearing in its mainstream publications (Beasley, 1996, p. 126). Ross (2004, p. 151) also reveals that, in the BLF deregistration era, the BLF was served by Italian

and Greek-speaking organiser, Mick Pappan, whilst the BWIU, famously, had the Italian-speaking Vince Raffa, best remembered today as being a committed and embittered opponent of the Victorian BLF. It is unlikely that the ethnic outreaches of other unions in Sydney today are as strategic, purposeful or as large-scale as those of the CFMEU. The CFMEU is *early to unionize* among newly-arrived groups, such as the South-East and East Asian communities who began to arrive in the 1970s and 1980s, and the Kurdish, Dari, and Farsi-speaking Middle-Eastern groups who are even more recent arrivals on the Sydney scene.

Only the intervention of the CFMEU in cases of worker exploitation and abuse stops the classic Marxian dialectic of capitalist development (i.e. the increasing wealth created by capitalism and the concomitant increasing impoverishment and suffering of the proletariat) from running its full course.⁶ As our micro-cases (Chapters 8 to 10) reveal, without CFMEU involvement the migrant worker is frequently without the skills, influence, and resources needed to begin to effect change. By contrast, with the assistance of CFMEU's strategic thinking, centralized power, and organizational skills, the migrant worker's case is pushed pro-actively through a series of industrial action mechanisms such as strategic peaceful protests, leaflet drops, and blanket media coverage (Bain and Taylor, 2008). In nearly all cases documented in CFMEU promotional literature, a satisfactory negotiated financial

⁶ Regarding the Marxian theory of the capitalist dialectic see Althusser (2006, 2007, 2008a), Cooper *et al.* (2005), Engels (1976 [1878], pp. 150-182, 328, 2004 [1880], pp. 35, 40, 63), James (2009), Mandel (1976, pp. 17-25), Mao Zedong (2007a [1937], 2007b [1957]), Marx (1976a, 1976b [1873], pp. 100-103), Meikle (1979), Mephram (1979), Ruben (1979), Tinker *et al.* (1991), Tinker (2001, 2005), and Tinker and Gray (2003). Mandel (1976, pp. 69-72) points out correctly that Marxist economic theory only speaks of the *relative* impoverishment of the proletariat. Absolute impoverishment is only the prospect faced by part-time workers, workers in the illicit economy, invalid pensioners, and the unemployed. The unfortunate prostitutes murdered by serial killer 'Jack the Ripper' in Whitechapel (London) in 1888 were in this category hence their vulnerability to a man, who may have been a West End toff, offering them money in the early hours of the morning (Begg, 2005; Sugden, 2002).

settlement is obtained which would have been out of the reach of the worker and her/his family without CFMEU intervention. We also note cases where the union has used its South Korean and Chinese full-time organisers, Mr Chikmann Koh and Mr Yu Lei Zhou, to achieve humanitarian goals. For example, Koh and Yu received donations from South Korean and Chinese building workers and forwarded these to the mother of a Chinese student who died in Sydney in the course of a home invasion (Anonymous, 2008c). The CFMEU also gave a AUD10,000 donation (jointly with the Maritime Union of Australia) to the 78 Sri Lankan Tamils on board the *Oceanic Viking* which was halted by the Indonesian navy en route to Australia in the second half of 2009 (Allard, 2009).

The three micro-cases we present in the second half of this book (from Chapters 8 to 10) demonstrate how the threat of peaceful protests, combined with blanket media coverage, is generally sufficient to gain active government interest in actual breaches of the law as well as a negotiated financial settlement from the builder. The final micro-case (presented in Chapter 11) reports and comments on discussions between the CFMEU's Chikmann Koh and the president Mr Philip E. Oh and the secretary Mr Hyun-Don (Peter) Shin of the Korean Tiler Association of Australia (KTAA) regarding the respective roles of the union and the community body and the possibilities for future alliances between the two bodies in certain cases. This micro-case gives us a snapshot into the future of the industry in multicultural cities such as Sydney. In terms of its general strategic focus, which can best be described as preventative rather than cure, the Sydney CFMEU aims to educate migrant workers about both their legal rights at work in Australia and the advocacy services that the CFMEU can offer. The union produces special multi-lingual editions of its magazine *Unity* in (at present) six languages. It has

hired a full-time organiser, Mr Mansour Razaghi, who speaks Kurdish, Dari and Farsi. It also has hired a full-time Korean speaking organiser Mr Koh who is in a perfect position to offer culturally-specific support and assistance to workers from South Korea. A Chinese speaking organiser, Mr Yu Lei Zhou, joined the staff in the second half of 2008, but had not joined the staff at the time of our fieldwork. The Korean community of Sydney has managed to establish for itself a significant presence in the construction industry, especially in the ceramic tiling trade, in the 20-year period since 1988. NSW State Secretary of the CFMEU Construction & General Division Andrew Ferguson recounted to the first-mentioned author, in personal interview (24 March 2008), that Koh 'has been here several months' (as at March 2008) and 'has got good contacts in the Korean speaking construction industry'. At the moment, Sydney CFMEU's willingness to adapt and adaptation strategies seem to be achieving some success and should be viewed as a definite step in the right direction if we accept the premise that union organiser demographics should be broadly representative of the demographics of the workforce that they hope to serve (Heery and Simms, 2008). CFMEU strategy can only be described as innovative given that many trade unions in western countries remain essentially monolingual and monocultural despite the fact that the workforces that they represent are multilingual and multicultural (Heery and Simms, 2008). Since union membership has been steadily decreasing in Australia since at least 1982 (Bramble, 2008, Table 5.2, p. 155), connecting with ethnic communities in the multicultural cities would seem to be a necessary approach simply to arrest further declines in unions' membership numbers (setting aside for a minute the humanitarian considerations).

Chapter 3

Theoretical framework – Roman Catholic perspective with respect to issues of union influence, density and reach

The rise of Roman Catholicism since the Second Vatican Council in the 1960s has been associated with statements and publications by the ‘radical’ (O’Shea, 2005, p. 7) Pope John Paul II (e.g. John Paul II, 1981, 1991, n/d) confirming the dignity of labour and the importance of trade unions that can raise and protect workers’ wages and working conditions.⁷ At a gathering of workers in May 2000, John Paul II (2001, Section 10, p. 16), in his own words, voiced ‘a strong call to correct the economic and social imbalances present in the world of work and to make decisive efforts to ... give due attention to solidarity and the respect owed to every human person’. Furthermore, workers should not be ‘treated as mere tools for profit, rather than as free and responsible persons’ (John Paul II, 1986, Section 43, p. 73). In his important Catholic social teaching encyclical *Laborem exercens [On Human Work]*, John Paul II (1981, Section 23, p. 92) argues that capital should always serve labour rather than labour serve capital. Furthermore, he writes that ‘[t]he key problem of social ethics ... is that of *just remuneration* for work done’ (John Paul II, 1981, Section 19, p. 77, emphasis original), and that ‘a just wage is the concrete means of *verifying the justice* of the whole socioeconomic system and ... of checking that it is functioning justly’ (John Paul II, 1981, Section 19, p. 78, emphasis original). Traditionally, the Roman Catholic Church has venerated St Joseph, the human father of Jesus, as a skilled labourer in

⁷ The Roman Catholic Church’s ‘social teaching’ is widely held by theologians to have commenced with Pope Leo XIII’s encyclical *Rerum novarum [On the Condition of Labour]* in 1891. Curran (2002, p. 7) lists thirteen documents generally held to make up the canon of Church social teaching, including three by Pope John Paul II.

the purest (unalienated, pre-capitalist) form (see Moore, 1977). The Roman Catholic Church of St Joseph the Worker stands today at 50 Wellington Road in the suburb of Auburn, Western Sydney, exactly two kilometres due west, as the crow flies, from the CFMEU headquarters in Lidcombe.

Whilst John Lennon and Paul McCartney portrayed the priest Father Mackenzie as socially irrelevant and introverted 50 years ago in the Beatles' song 'Eleanor Rigby', it is worth noting that the Howard-Costello Government's *Workplace Relations Amendment (Work Choices) Act 2006 (Cth.)* was strongly opposed by the Roman Catholic Church in Australia and by its most senior representative Cardinal George Pell of Sydney. Working in conjunction with the trade unions and other voices on the left, the Catholic Church took upon itself the role of intellectual, moral, and spiritual vanguard on workplace relations. Father Bill O'Shea (2005, p. 35) reminds us that 'social justice and human rights are just as integral to the Church's mission as its liturgy and its religious education'.

In *Laborem exercens [On Human Work]*, John Paul II (1981) writes that the following rights of workers should be considered sacrosanct from the Roman Catholic perspective (many of these had already been spelled out by Pope Leo XIII in the first document of what is now called 'Roman Catholic social teaching', *Rerum novarum [On the Condition of Labour]*, in 1891; Curran, 2002): (a) the right to unemployment benefits (Section 18, p. 73); (b) the right for a mother to stay out of the workforce should she so choose (Section 19, p. 79); (c) the right to cheap or zero cost medical care (Section 19, pp. 80-81); (d) the right to at least one day off work per week (Section 19, p. 81); (e) the right to a pension and workers' compensation insurance (Section 19, p. 81); (f) the right to satisfactory and safe working conditions (Section 19,

p. 81); (g) the right of freedom of association (Section 20, p. 81); (h) the right to strike (Section 20, p. 85); and (i) the right to work in a foreign country (Section 23, p. 90); (j) at terms and conditions no worse than those available to the nationals of that country (Section 23, p. 92). Clearly, the WorkChoices laws and the Section 457 visa scheme, designed to provide Australian employers with a low-cost source of foreign labour, in combination violated a number of these sacrosanct rights, especially (h) and (j). In regards the right to freedom of association, John Paul II told workers in Monterrey in Mexico in 1979 that '[i]t is their [workers'] fundamental right to freely create organisations to ... promote their interests" (cited in Stourton, 2006, p. 188).

The exact relationship between Roman Catholicism and Marxism remains unclear. Although, in the 1960s, Pope Paul VI validated the use of Marxism as a tool for sociological analysis (Curran, 2002, p. 203) and did not rule out violent revolution under certain (not clearly spelled out in advance) circumstances (Curran, 2002, pp. 162, 164), Pope John Paul II and the then Cardinal Ratzinger (especially the latter) opposed the Latin American Catholic-Marxist 'liberation theologians', accusing them of politicizing the gospel and reducing such an 'earthly gospel' to the level of a human ideology (Stourton, 2006, pp. 183-193, 225-231). Liberation Theology was accused by the Church hierarchy of 'subordinating theology to the class struggle' (cited in Stourton, 2006, p. 230). Famously, on John Paul II's visit to Nicaragua in April 1983, he rebuked one of the new Sandinista Marxist Government's four Catholic priests on the tarmac, Father Ernesto Cardenal, Minister for Culture, advising him to 'regularise' his 'position with the Church' (Stourton, 2006, pp. 228-229). The Roman Church hierarchy maintained the view that a priest should not hold a formal ministerial position in government. The other priests to hold positions in the Sandinista

government were Father Edgar Parrales, Minister of Social Welfare; Father Miguel D'Escoto, Foreign Minister; and Father Fernando Cardenal, co-ordinator of the government's Literary Crusade (Stourton, 2006, pp. 227-228).⁸ Allegedly on express instructions from John Paul II (Stourton, 2006, p. 226), Joseph Cardinal Ratzinger and Alberto Bovone, Titular Archbishop of Caesarea in Numidia, jointly authored the document *Instruction on Certain Aspects of the 'Theology of Liberation'* in 1984 (Ratzinger and Bovone, n/d). This polemical and forceful document was an extremely strong attack upon Liberation Theology and, by implication, Marxism. However, the document does not stand up well under critical scrutiny and it lacks the nuanced sophistication, intellectual brilliance, and personal warmth of the writings of the self-taught philosopher John Paul II.

Although John Paul II directly opposed Liberation Theology of the Latin American variety during the peak of its fame in the 1980s, his biographer George Weigel (2005) correctly notes that he seems to have taken on-board some of the ideas of the liberation theologians such as the 'preferential option for the poor' and 'sinful structures' (see also Curran, 2002, pp. 13, 185, 204 who makes a similar point to Weigel). These concepts had not previously been strongly emphasized in Catholic social teaching. Both concepts are introduced and explained in depth, along with his new Christian virtue of *solidarity*, in the longer Catholic social teaching document of *Sollicitudo rei socialis [On Social Concern]*, an encyclical letter of John Paul II written in 1987 (John Paul II, n/d). Solidarity is referred to in Section 21 (p. 36), Sections 38 to 40 (pp. 71-76), and Section 45 (pp. 85-86); 'structures of sin' in Sections 35 and 36 (pp. 65-69); and 'preferential option for the poor' in Sections 42 to 45

⁸ One wonders how 'shockingly Marxist' the Literary Crusade was and what John Paul II's views on it were.

(pp. 80-86). However, it should be pointed out that John Paul II refuses to equate the Christian 'poor' with the Marxist 'proletariat' and, following Ratzinger and Bovone (n/d), he states that sinful structures always begin in the actual sinful acts of individual human beings which then become hardened or embedded within economic, social, political, and religious structures so that they become 'sinful structures' (John Paul II, n/d, Section 36, pp. 66-67). He would never shift his focus or emphasis away from the key Catholic ideas of personal sin and the need for personal repentance.

During the 1980s, John Paul II was an active supporter of the Solidarity trade union that had stepped up to serve as the defacto opposition party to the Communist regime in his native Poland (see Weigel, 2005). In *Sollicitudo rei socialis*, John Paul II seems so interested in and supportive of key concepts of Liberation Theology, and, by implication, Marxism, that there seems to be nothing that he clearly opposes in them other than Liberation Theology being used uncritically as some sort of brand-name (or 'ideology', as he insists on calling it in one of the few clumsy moments of the document). The document almost reads as if Liberation Theology's fatal flaw was simply that it was developed in Latin America rather than by the church hierarchy in Rome (or, at least, Poland). Reading between the lines, one possible interpretation is that John Paul II is saying that Marxism can be kept as long as it not used uncritically and is always kept subsidiary, by the individual, to all of Roman Catholic doctrine and practice. This is our preferred interpretation. It is then up to the mature and experienced individual to, existentially, create her/his own workable synthesis of Catholicism and Marxism. In areas of direct conflict between the two worldviews, and we would argue that there are relatively few of these in

practice if not in theory, the Catholic individual must bow to the divinely inspired Catholic doctrines and practices.

Our approach to Catholicism and Marxism is at the left-wing end of the Catholic spectrum, following on in the spirit of Pope Paul VI and the later John Paul II, especially the John Paul II of *Laborem exercens* and *Sollicitudo rei socialis*. Our analysis of the relationship between Catholicism and Marxism, presented in the Appendix to this book, may prove interesting to some readers as it is one of the few systematic recent attempts to harmonize and integrate the most important aspects of Catholicism and Marxism. Some might view this as an intrinsically ‘post-modern’ project! For those readers less interested in religious debates and scholarship this Appendix can be skipped. We do acknowledge that the Church is more likely to swing to the right than to the left under the former Cardinal Ratzinger Pope Benedict XVI.

CFMEU strategy today is *consistent with* the pro-worker side of the Roman Catholic tradition since the union takes all steps possible to *humanize* workers and their families. Furthermore, as Peetz (2006, p. 25) writes, ‘[a] union seeks to create and strengthen employee identifications with occupation, class and union’. The union can be expected to continue to reject moves by building company bosses to treat labour as simply another variable cost of production, an idea that is totally at odds with Roman Catholic social teaching. CFMEU, in effect, opposes the ‘ideology of accounting’ where wages are an ‘above-the-line’ expense to be minimized whenever possible.

Whether union strategy is correctly conceived or not and successful or not is extremely important from the Roman Catholic perspective. If union strategy is intelligently conceived and successful in practice, then union power and reach increase, union density increases, and the benefits of union membership are maximized both at the levels of

collective labour and the individual worker. While, for Catholic social teaching, the right to freedom of association is invariant, the benefits flowing from that right to the worker are very much a function of past and present union strategy. Where the rights of the worker are protected at worksites, the revealed dignity of the human person as labourer created in the image of God is enshrined. Theological dignity requires dignity in practice which requires successful union strategy that expands union power, reach, and density. As the union is a free association of labourers in an industry, it is the ideal body to further the collective interests of labour and to ensure that, consistent with Catholic social teaching, capital remains in labour's service (Curran, 2002, pp. 79, 90). Significantly, Pope Leo XIII's *Rerum novarum* states that '[w]henever the general interest or any particular class suffers, or is threatened with evils which can in no other way be met, the public authority must step in to meet them' (cited in Curran, 2002, p. 141). Clearly, there is no reason why a trade union or a church could not be the body to 'step in' to protect those oppressed, and they may be more suitable institutions to do so than the bureaucratic state machine (Curran, 2002, p. 142). As Curran (2002, p. 144) points out, 'mediating institutions [for example, local churches and trade unions] are closer to the grassroots level and can deal effectively with some aspects of the problem of poverty'.

Peetz (2006, pp. 157-185) and Peetz *et al.* (2007) contrast two union strategies, the 'servicing model' and the 'organising model'. The organising model has been championed over the last ten years by the Australian Council of Trade Unions (ACTU) and its former Secretary Greg Combet (Peetz, 2006, p. 163). Under the servicing model, organisers are the focus of attention, the union and the membership look to them to produce results, and they are the ones that receive most resourcing and support. Union members have a 'transactional'

worldview whereby organisers deliver 'services' to members in exchange for 'fees' (Peetz, 2006, p. 161). 'Grievance work' takes up the bulk of organisers' time and resources and it is organisers who pressure management to alter its behaviour. By contrast, under the organising model, workplace delegates (shop stewards) are the focus of attention, are supported with resources, and are expected to produce the bulk of the results. It is this approach that is now recommended by the ACTU. The advantages of this approach are that the union is seen to be part of, rather than above and separate from, the workforce, and the union can be more responsive and accountable since the delegates are on site full time. Workers' self-confidence should, theoretically, increase when they win small victories at workplaces without the organisers' direct involvement (Peetz, 2006, pp. 168-172). A good example of the use of the organising model is during the 1986 Victorian Nurses' Strike in Australia when union organiser Irene Bolger of the now defunct Royal Australian Nursing Federation (RANF) frequently supported rank and file strategies that she did not personally agree with (Bloodworth *et al.*, 1998, pp. 133-149). The success of many Australian unions in increasing their membership bases, or at least in dramatically halting the rates of decline, since 2000 has been attributed to the shift from the servicing to the organising model (Bramble, 2008, pp. 204, 243; Peetz, 2006, pp. 60, 163).

Evidence suggests that the servicing approach remains the primary approach in Australia. Peetz (2006, p. 166) argues that his survey evidence, reported also in Peetz *et al.* (2007), shows that unions are less than a quarter of the way through the changes they need to make. However, there is evidence of a cautious move towards the organising model. Union organisers lament, in survey responses, that too much of their time is spent on grievance work which suggests that organisers

favour the organising model. The surveyed organisers were spending 30% of their time (down marginally from 34% two years previously) on grievance work whereas they suggested an ideal figure of 17%. By contrast, they felt that they should be spending 26% of their time building delegate structures and training delegates. Actual time spent in these activities was stated to be only 11%, marginally up from 9% two years previously. However, CFMEU implicitly encourages a servicing worldview as final outcomes of grievance cases, which nearly all involve organiser action, are highlighted repeatedly in union publications. Patrick O'Brien (name changed), a former CFMEU organiser in Western Sydney, and now an organiser with a white-collar union in the education sector, defends the CFMEU, arguing that grievance work is just a part of the job, may be repetitive and mundane, but is necessary to be done if membership needs are to be met effectively (personal interview with first-mentioned author, 15 June 2009).⁹ It is logical that in the rough and tumble of the construction industry appeals to management by independent organisers, rather than by delegates who are employees, might be initiated more frequently and meet with more success.

Pyman *et al.* (2009) study the degree of 'unmet demand' for unionization existing in Australia. They define unmet demand as survey respondents indicating that they would like to join a union but are not already members of a union. They note that unmet demand occurs primarily on 'greenfields' sites where access to the union and union organisers is impossible or difficult. Thirty-eight point five percent of surveyed workers who did not have a union at their workplace indicated willingness to join. However some unmet demand also occurred at high

⁹ O'Brien was a building industry labourer and CFMEU member in Sydney and Adelaide from 1996 to 1999. He was a CFMEU organiser, first in Kent St (Sydney) and then in Lidcombe (Sydney), from July 1999 to January 2005. His area of responsibility, during his Lidcombe days, was the Marrickville and Leichardt local town council areas, i.e. the inner-west region.

density workplaces (Pyman *et al.*, 2009, p. 12), suggesting that unions should not ignore 'infill recruitment' at these places. Whether to focus on 'infill' or 'expansionary' (at greenfields sites) recruitment may be a difficult strategic choice for a union (Palmer and McGraw, 1990, p. 16). Twenty five percent of surveyed non-members in unionized workplaces reported that they would be 'very likely' or 'fairly likely' to join the union if someone were to invite them. The authors give a figure of 38.5% for Australian unionism if all unmet demand is included (or 27.8% if only the 'very likely to join' unmet demand responses are included). They note that unmet demand is negatively correlated with a number of demographic variables such as age, income, and years of working (Peetz, 2006, pp. 30, 168). There is significant unmet demand among younger workers, casting doubt on the theory that younger workers are by nature more individualistic. Workers are also more likely to join a union if the union has been able to demonstrate successful outcomes in the past (Pyman *et al.*, 2009, p. 8). Younger workers are less likely to fall into this category and hence they are more likely to be 'unmet demand'.

Lastly, the authors discuss the main theories as to why workers join unions, which can be summarized as: (a) dissatisfaction with current workplace (Bramble, 1993, p. 55; Peetz, 2006, p. 15; Pyman *et al.*, 2009, p. 7; Wheeler and McClendon, 1991); (b) ideological reasons (Peetz, 2006, p. 17; Pyman *et al.*, 2009, p. 7; Wheeler and McClendon, 1991); and (c) instrumental reasons (Peetz, 2006, p. 17; Pyman *et al.*, 2009, p. 7; Wheeler and McClendon, 1991), meaning that the worker joins if she/he perceives that she/he will gain from union membership based solely on cost-benefit criteria. This last factor is consistent with Karl Marx (1976a, pp. 1069-1071) describing unions as 'insurance' in Volume 1 of his classic work *Capital*. For Marx, trade unions prevent the individual worker, out of desperation, from selling her/his labour-power

at a price below its value. For Marx (1976a, pp. 275, 284-306), historical and social factors, unique to a particular civilization and culture at a particular point in time, determine the value of labour-power. Therefore, union influence in an industry over time contributes to the creation of the value of labour-power at any particular moment.

Bain and Taylor (2008) study the reactions of five unions in the UK (Amicus, Unifi, Lloyds Trade Union (LTU), Communication Workers Union (CWU), and the Union of Shop Distributive and Allied Workers (USDAW)) to the event of offshoring of call centre work to India by a sample of banks and finance companies. The outcomes of each campaign, measured in terms of the success of each union in preventing compulsory redundancies, are also highlighted and the authors discuss the links between campaign strategies and outcomes. They rely upon Hyman's (1975) definition of 'power' (see also Kelly, 1998; Martin, 1992) and the argument that industrial disputes involve assessment of one's own power against the power of the other side. Martin (1992, p. 1) vividly describes power as the 'ghost at the bargaining table'. Kirkbride (1992) and Kelly (1998) emphasize that 'the actors' *perceptions* of power resources were critical in understanding power struggles' (Kelly, 1998, p. 51, emphasis added). Hyman (1975, p. 97), a British Marxist author, argues that unions' negotiating positions are based on what can 'realistically' be gained from employers. There remains a need to 'assess clinically the other side's power resources in adversarial situations' (Bain and Taylor, 2008, p. 19; see also Magenau and Pruitt, 1979; Salamon, 2000, p. 79). The focus here on 'realism' and 'clinical assessment' suggests that, in the Australian context, it would be inappropriate to expect the CFMEU of today to adopt the same militaristic tactics used by the predecessor building unions in the 1960s and 1970s (including the BWIU and the BLF). The societal context, and more importantly the

legal context, has changed dramatically since those times. Of special relevance to our discussion of CFMEU Sydney's strategy in this book is Kelly's (1998, p. 51, emphasis added) argument that 'purely structural accounts of power [have] omitted the attitudes and *strategies* of the actors'.

Bain and Taylor (2008) find that those UK unions that threatened strike action and campaigned vigorously against the employer were more likely to achieve success. In one case (USDAAW against Reality), success was achieved when affected call centre workers were joined by transport workers in threatening strike action. By contrast, passive unions that did not threaten strike action but merely contacted the local parliamentarian and/or arranged consumer petitions had fewer successes. These right-wing unions often couched debate in terms that encouraged xenophobia; Indian workers were the subject of ridicule rather than the British employers. These unions, in some cases, relied nearly exclusively on work done by full-time union organisers. They alienated substantial proportions of their memberships by deciding *not* to undertake any form of industrial action. Mr Harry Williams, of the School of Policy at Newcastle University (Australia), argues that the same situation of worker disappointment and alienation exists presently in the Australian construction industry (interjection at Newcastle University research seminar, 24 April 2009). Hence he calls for the CFMEU, and especially its less militant NSW branch with its strong ALP connections, to focus on agitation first and education second and to take strike action where necessary (regardless of the fines that may be imposed).

Heery and Simms (2008) survey and interview a number of young British union organisers participating in industry training. They aim to identify the key internal and external constraints perceived by the organisers that make their work less likely to achieve its objectives. This

research is especially important for the present authors as we are interested here in evaluating the *strategy* of the CFMEU in the immediate post-Howard environment and would also like to suggest possible paths forward for the union in this time of opportunity. Heery and Simms (2008, p. 39) find that internal constraints identified by their sample of union organisers are perceived to be at least as important as external constraints. Because internal constraints are internal to the organisers' own unions they remain within union control. Hence, possibilities exist for proactive and in-touch unions to firstly change themselves and secondly change their external environments. Unions may 'push back the boundaries of constraint' (Heery and Simms, 2008, p. 40). Heery and Simms (2008) find that female organisers do not seem to experience greater problems than male organisers although they are less likely to encounter satisfactory lay support. This finding about lack of lay support is consistent with a masculine culture still being a feature of many unions (Heery and Simms, 2008, p. 37; Kersley *et al.*, 2006, pp. 146-147). Over 90% of organisers that Heery and Simms surveyed were ethnically white Britons (Heery and Simms, 2008, p. 27 and Table 1, p. 28), which reinforces the claim that British union organisers are not well matched with the multicultural workforces that they hope to serve. We find that this is definitely not the case for CFMEU, whose Sydney branch has hired a number of foreign-language speaking organisers and also produces foreign-language publications. This suggests that CFMEU is now well placed to effectively recruit members from ethnic minority backgrounds within the Sydney construction industry and, more importantly, to meet their needs effectively (albeit largely within the context of what Peetz (2006) terms the servicing model). Patrick O'Brien comments that reaching out to ethnic minority workers has been a strength of the CFMEU in Sydney and he comments that Construction &

General Division State Secretary, Andrew Ferguson, brother of Federal ALP MPs Martin and Laurie, has a detailed understanding of the various ethnic communities in Sydney as well as the ins and outs of Labor Party politics in the area. However, because many new migrant workers have poor or zero English skills, and in many cases are illegal immigrants, servicing the needs of these members at Sydney is highly likely to follow the servicing model.¹⁰

Another important finding of Heery and Simms (2008, p. 37) is that organisers with a past background in social activism tend to perceive organising constraints to be less important. This result suggests that such organisers' prior work experience is often of benefit to them when working as organisers. One of the CFMEU's foreign-language speaking organisers, the Korean speaking Mr Chikmann Koh, has a background in investigative journalism. He was formerly an investigative reporter for a Korean-language publication in Sydney which is how he came into contact with the CFMEU. The Iranian Farsi and Dari-speaking organiser, Mr Mansour Razaghi, who joined the CFMEU on a part-time basis in May 2008, has prior working experience in community liaison at a multicultural working-class government high school in Western Sydney. Mr Mal Tulloch is presently a Holroyd (Western Sydney) councillor and previously was an organiser at the CPSU (Community and Public Sector Union) and mayor of Holroyd. These prior positions required negotiation and persuasion skills in tense workplace contexts and with a social activism component; these prior backgrounds are likely to serve these CFMEU organisers well in their organising activities.

The most important internal constraints nominated by surveyed respondents in Heery and Simms (2008) were as follows (listed in order

¹⁰ The CFMEU's Chikmann Koh and the Korean Tiler Association of Australia (KTAA)'s president Phillip E. Oh estimate that of the 4,000 to 5,000 Korean ceramic tilers working in Sydney 70% are illegal immigrants.

of the percentage of respondents listing the constraint as ‘very important’): (a) lack of commitment or experience of workplace activists (43%); excessive demands on time and energy (33%); (c) lack of support from full-time officers of the union (32%); (d) inadequate union systems or information (32%); and (e) absence of an organising tradition within the union (30%). By contrast, the most important external constraints were as follows: (a) employer opposition to trade unions (37%); (b) union image; too male dominated or unattractive to younger workers (33%); (c) lack of access to targeted workplaces (29%); (d) individualistic values among non-members (27%); and (e) absence of supportive legislation (20%).

In the present study, the external constraint of Howard-Costello Government workplace laws is in the process of being dismantled,¹¹ to be replaced by the Rudd Government Fair Work Australia regime, while the external constraint of Howard-Costello Government hegemony to a large extent ceased on election night 2007. A third external constraint that has emerged recently (but had not emerged at the time of our field work) is the global financial crisis of 2009. We observe that the CFMEU organisers are comfortable in the traditional adversarial organiser role, can mobilize workers, often threaten if not actual strikes then peaceful boycotts, and often win favourable financial settlements. Most, such as Keryn McWhinney and Mal Tulloch, have many years of organising experience in the construction industry (McWhinney was an organiser at the time that O’Brien joined in 1999) while others, such as Chikmann Koh and Mansour Razaghi, have prior working experience in complex roles involving negotiation and persuasion skills and a social activism component.

¹¹ The actual content of these laws and their ramifications have been discussed in detail elsewhere in the IR, management, and industrial law literatures and are outside the scope of this book.

Important external constraints nominated by British union organisers *which have not been removed* in Australia are as follows: 'lack of access to targeted workplaces' [situation probably improving but far from ideal]; 'union image (too male dominated and unattractive to younger workers)'; and 'individualistic values among non-members'. Another pressing external constraint is the global financial crisis which Australia had not fully recovered from as at the date of writing (19 April 2010).

Chapter 4

Theoretical framework – Marxist perspective on immigrant worker issues

The Howard-Costello Government's harsh workplace laws reduced union muscle significantly on the nation's building sites and seriously threatened safety on the sites. Banning union access to worksites meant that union reach and influence diminished and union experience on safety issues was much less likely to be fully utilized by company safety committees than in the past even when many workers would have supported union involvement. The construction industry continues to lose a worker a week due to death across Australia (Anonymous, n/d, p. 3) and the buildings of this country literally have been built on the blood of the global working class who have paid in many cases with their own lives and in other cases with serious injuries for which they may never receive just compensation. In the front garden of the CFMEU's Lidcombe (Sydney) headquarters there is a Wall of Remembrance that lists the names of over 160 construction workers. The size of the wall had given the authors the first impression that this was a memorial to construction workers who had been killed in wars. The reality was even more shocking: all of these construction workers had been killed in Australia on building sites. The moving descriptions of worker exploitation, degradation, and poverty told so vividly by Marx (1976a) in *Capital* Volume 1 (chapters 10 and 15), by Marx (1981) again in *Capital* Volume 3 (chapter 5), and by Engels (1987) [1845] in *The Condition of the Working Class in England* (James, 2009; Tinker, 1999) have been, or would have been without CFMEU intervention, replicated in the prosperous Australia of today. Only a 'thin veneer of civilization' exists in our society as the shocking treatment and exploitation of workers occurs

alarmingly often. The micro-cases we present in Chapters 8 to 10 are probably at the severe end of the scale, in terms of impacts on the affected workers, but the CFMEU in Sydney deals with large numbers of similar cases on a continual basis. Marx seems to have been right when he argued on the pages of *Capital* that the motive, driving purpose, and character of the capitalist mode of production have always been to maximize surplus-value and the 'rate of profit'.¹² The capitalist business owner does not distinguish between sales of apartment buildings, fast food, and holidays: the law of capitalist production is that capital is always channelled into that line of business where it is expected to earn the highest rate of profit (Marx, 1978, p. 461, 1981, p. 297). The capitalist driving purpose of surplus-value maximization can have particularly devastating impacts in the construction industry where poor safety standards cost lives and many companies do not pay the legally mandated worker compensation insurance payments, superannuation, long-service leave payments, and overtime payments. As the CFMEU's Ferguson stated, in conversation with the first-mentioned author on 15 May 2008, it is often difficult for a 'union company' (i.e. one with an Enterprise Bargaining Agreement (EBA) with the CFMEU to compete with a 'non-union company' to win tenders when the union company pays an effective AUD50/hour (inclusive of all benefits and insurance) and the non-union company pays AUD15/hour. Ferguson does note, however, that the CFMEU sometimes does pro-actively assist union companies in the tendering process. Anthony Gibbs (name changed), a Brisbane-based construction lawyer with ten years' experience, states that '[t]hey [the union] should be nurturing the business that does the deal and not feed off it' (in personal interview with the first-mentioned

¹² See Marx (1976a, pp. 254, 411, 449, 530, 976, 990, 1020, 1038, 1049-1051, 1978, pp. 137-138, 159, 233, 427, 461, 1981, pp. 358, 360); more recently see Ernest Mandel (1976, pp. 33, 38, 52, 60-61, 65, 1978, p. 35).

author, 6 October 2009), suggesting more aid should be given to union companies to help them recover the wage differential.¹³

V.I. Lenin (2004) [1916] predicted in *Imperialism: the Highest Stage of Capitalism* that workers from the developing world would increasingly become the most exploited members of the global working-class as capital becomes concentrated in fewer and fewer hands and mobility of both capital and labour occurs on an ever increasing scale. Whilst Lenin talked mostly about developing country workers physically working in the developing world, we observe cases of workers from developing countries working in Australia being exploited and victimized. As the CFMEU's Ferguson said (in personal interview with the first-mentioned author, 24 March 2008), migrant workers on s457 or other temporary visas remain 'the most exploited group in the industry due to language, lack of knowledge [and lack of] power'.¹⁴ Migrant workers, when willing to work at lower wages than Australian nationals, reduce the subsistence level of wages, which is determined by historical and social factors. This allows for a direct increase in surplus-value and the rate of profit.

¹³ Gibbs has ten years total experience as a construction lawyer including a period when he worked for the Housing Industry Association (HIA) in Canberra. He presently works for a leading Brisbane law firm in the area of contractual disputes.

¹⁴ Section 457 (s457) visas, introduced by the Howard-Costello Government, were designed to facilitate the hiring of foreign workers by Australian companies during the economic boom. They bind the worker to the hiring corporation and usually involve accommodation arranged for the worker by the employer. Because of these terms and conditions, the balance of power strongly favours the employer since any worker behaviour deemed objectionable to the employer (for example, joining a trade union) can result in the worker being fired and deported. The worker has 28 days after being fired to look for a new employer which is insufficient time for workers who may have poor English language skills and a lack of networks in Australia, and who simultaneously have to resolve accommodation problems while looking for a new job. *Australian Chinese Daily* reports on 14 September 2009 that as from this date s457 visa holders must be paid market salary rates and that those earning less than AUD45,220 per year are not entitled to a visa under the scheme [Kate (2009); translation into English by second-mentioned author].

The CFMEU in Lidcombe (Sydney) has been largely successful in its innovative strategy of outreach to migrant workers due to the following factors: (a) State Secretary Andrew Ferguson's links with the ALP and the ALP's own historical links with the ethnic communities of Western Sydney;¹⁵ (b) a strong tradition of organising and militancy in the industry in Australia dating back to the supremacy of the BLF especially in the period from the rank and file takeover in 1961 to the deregistration in 1986; (c) the new industry super-union the CFMEU, forming in 1994, creating the economies-of-scale and self-confidence needed to tackle complex problems and fight successfully recalcitrant building companies; (d) Ferguson's personal knowledge of the ethnic makeup of Western Sydney; and (e) an ongoing commitment to what Martinez Lucio and Perrett (2009) have termed 'like-for-like' organising strategies, i.e. hiring organisers of one ethnic group to reach out to workers of the same ethnic group. In terms of its ALP power-base, Mark Hayward claims (in conversation with the first-mentioned author on 6 November 2009) that the Ferguson family has ruled an enclave in the Western Sydney region centring on Merrylands, Granville, and Auburn for the past 40 years. O'Brien makes the following comments regarding the Sydney CFMEU's outreach to migrant workers (in personal interview, 6 October 2009):

"Reaching out to ethnic groups is one thing you have to say [Andrew] Ferguson has been on top of. Ferguson has a good understanding of the make-up of Sydney, especially Western Sydney, and the politics of it, and the [politics of the] various communities that make it up. You have to say they have had some success out of it. There has been resistance by some cultural groups. It is a good

¹⁵ The ALP has long attempted to build relationships with ethnic communities in Western Sydney, and many of its MPs are not from Anglo-Celtic backgrounds themselves. One example should suffice. Federal MP Janice Crosio and State MP Joe Tripodi both spoke out in parliament to defend Tony Labbozzetta, supremo of the Italian community football club Marconi Fairfield (based in the Bossley Park suburb of western Sydney), against damning allegations made against him in the 1995 Stewart Report (Solly, 2004, pp. 109, 129, 140, 158).

start you have to say. You have to consider what is achievable. You can't hold it up to a standard of the 1960s and 1970s where it was mainly Australian and British workers and longer standing European groups. ... No, I don't view it [the strategy to reach out to migrant workers] cynically. The union has to survive, fulfil its purpose and mission, and so it has to grow more members. However you have to orient [union strategy] is fair enough; you can't help someone if they are not a member".

Areas where the CFMEU in Western Sydney may need to improve are as follows: (a) the union tends to be relatively bureaucratic and centralized compared to the historically more militant Victorian branch (Anthony Gibbs, personal interview, 6 October 2009; Patrick O'Brien, personal interview, 15 June 2009) and compared to the Munday-era NSW BLF; (b) the union needs to build delegate structures and empower delegates in workplaces; and (c) with class struggle abandoned by the BWIU in the 1980s, its successor, the CFMEU, now operates in something akin to a theoretical void. However, the centralized structure of the union, and its ALP culture and links, can also be a positive factor as it gives the union leadership the structure, policies, processes, and clout to be able to successfully support the cases of exploited migrant workers as these cases progress through the system and receive publicity. In other words, the bureaucracy and centralization can be used to achieve and support left-humanitarian objectives. Presently a 'servicing model' (Peetz, 2006, pp. 157-185; Peetz *et al.*, 2007) mentality seems to exist, especially in relation to migrant workers, where the union offers assistance and benefits in exchange for union fees. In the long run a move towards the 'organising model' (Peetz, 2006, pp. 157-185; Peetz *et al.*, 2007), where union organisers empower, equip, and resource the membership seems to be the way forward. However it is acknowledged that migrant workers in cases similar to those described in this book (chapters 8 to 10) are atomised and disempowered for reasons of language and visa status and hence the 'servicing model' will

continue to have ongoing applicability. In these cases, empowering the workers is a long-term project but successful financial outcomes are needed in the short-term.

The abandonment of the doctrine of class struggle by the BWIU leadership in the 1980s, in rhetoric as much as in practice, does mean that the CFMEU operates in something akin to a theoretical void. Any organization operating in a theoretical void runs the risk of being overtaken by pragmatism, opportunism, and bureaucratic centralism. It seems that a theory of left-humanitarianism is needed, and this theory needs to be formulated, articulated, and expressed more clearly and more often. However, since nearly all cases of CFMEU action involve assisting marginalized migrant workers in their struggles against building company bosses, is it mere coincidence that the two opposing forces come from the opposing sides in Marx's theory of class struggle? Hence, theoretically at least but not in practice where pragmatism dominates, the theory of left-humanitarianism soon brings us back to the theory of class struggle, that great 'repressed other' of the post-modern 21st century. Clearly, for class struggle to be formally extinguished once-and-for-all at the theoretical level, the CFMEU theorists, if any exist, must effectively convince us that social classes do not exist in the Australia of today. We await such a sociological proof. Our impression is that the union seems to be going back to the concept of pre-capitalist pre-Marxist craft unions that were not based around class struggle. Former CFMEU Training Officer and BLF organiser Mark Hayward agrees with the researchers that this is a reasonable description of the present state-of-play regarding the CFMEU in Sydney (personal interview with the first-mentioned author, 6 November 2009).

Construction lawyer, Anthony Gibbs, puts forward a contrary view to the researchers when he states that: ‘The class war rhetoric needs not to be so prominent. You can’t deny your history, but you can’t always be at war, can you? This is just my view of society; I don’t think we are in a class war’. Gibbs suggests two practical reasons why the class war rhetoric (to the extent that it still exists) is unhelpful: (a) many small business owners emerge from the building sites. How will they adjust to this transition in the face of class war ideology? (b) There are two types of sub-contractors. Those that are not ‘labour only’ are paid for an outcome and are liable for defective work. These are not paid super because it is included in the contract price paid. This group is largely ununionized and would be a great new market of potential members for the CFMEU. However, the CFMEU’s ‘worker ideology’ may make these people feel uncomfortable and/or may blind the union to recruiting and assisting members of this group.

Chapter 5

Building site information campaign visits

In May 2008 the Sydney (Lidcombe) branch of CFMEU began a campaign of building site visits by a union team. The meetings, primarily information sessions about superannuation, long service-leave, and permanent disability entitlements, were conducted during the course of a morning. Each morning's program had the union team meet groups of 8-20 workers for 20-30 minute sessions, session after session, for the duration of the mornings. Simms (2007, p. 439) explains the motivations behind such information campaigns: '[T]hey attempt to place an emphasis on appealing to workers and on building collective interests and solidarity at workplace level around relevant workplace issues'. Only some of the site visits would be what Simms (2007) terms 'greenfield union organising campaigns', i.e. visits to workplaces with low density. Other visits were to building sites with high density. For example, the Merrylands shopping centre extension site, visited on 14 May 2008, had a density of 60% and every company operating on the site on the day had an Enterprise Bargaining Agreement (EBA). The days of 'no-ticket-no-start' (compulsory trade union membership) are long gone in the Australian construction industry and 60% density on a given site on a given day is now considered to be quite high. Anthony Gibbs (name changed), a construction lawyer at a leading Brisbane law firm, says that, with compulsory trade unionism no longer in operation in the industry, the CFMEU has no 'captive market' and it must get out there and compete to sell the benefits of membership to potential members (in personal interview with the first-mentioned author, 6 October 2009). This places the CFMEU in the same position as any other organization in

a capitalist economy trying to sell its services. In Gibbs' words (in personal interview, 6 October 2009):

"The union has a role to play. They must sell their message, not enforce it. Selling requires more work not that it's a difficult message to sell. They have to go through a transition. At one time they were no-ticket-no-start. Being a volunteer association [Housing Industry Association, HIA] we had 40,000 members. We had to sell. I don't know why the union doesn't sell more; I think they should sell more instead of playing the class war ticket. They should sell the benefits of what they can do, they could compete with HIA, show they are best at doing what they do – 'we have the best training product around, we have the best safety'. ... The union just has to update their approach. They have a good role and function to perform".

Some might argue, however, including the present researchers, that one of the things that the union 'must sell' is precisely the 'class war ticket'.

During the course of each morning union team visit there was the opportunity for each worker onsite to attend one session. Sessions were theoretically held in the lunch breaks of the workers. The fact that the union team could enter the two worksites that the first-mentioned author visited on 14-15 May 2008 (requiring the approval of the principal contractors at the sites) suggests that the industrial relations climate in Australia had already altered compared to the Howard-era. This conclusion is reinforced by the comments of union organisers. Workers at the sites visited (shopping centre extension site at Merrylands and apartment site at Rhodes) seemed positive and enthusiastic about the union team visits, many questions were asked and answered, and many workers filled out membership forms. A new, young union delegate was chosen, amidst much celebration, at the relatively less union-friendly Rhodes site. The CFMEU's Ferguson explained to the first-mentioned author the union strategy behind the visits. The goals of the visits were to 'rebuild influence' (Simms, 2007, p. 439) on building

sites and to reconnect with workers. In Ferguson's words, in conversation with the first-mentioned author on 14 May 2008:

"Today [we are] going around our sites doing super. We were very strong ten years ago. We have picked an issue to campaign on. We have a little team going around focusing on super. Some [bosses] underpay, some pay late, some not at all. We have recovered AUD40,000 plus in the last three weeks. We are educating and trying to demonstrate efficacy based on one issue. ... One guy is good at 'calcs' [calculations] and checks super calcs on site. We are trying to win small victories on the site".

Patrick O'Brien (name changed) states that during his six years as a CFMEU organiser in Sydney he did not experience any similar workplace campaigns and he commented that he felt the strategy was 'unusual' (O'Brien personal interview with second-mentioned author, 15 June 2009). He said it was likely a product of the current institutional and legal environment and what building companies were willing to permit. He also pointed out that it is important, as Ferguson says, to demonstrate efficacy by winning small victories on the sites. O'Brien, furthermore, commented that workers always 'enjoy guest speakers'. However, O'Brien also claims that the CFMEU in Sydney did not take full advantage of good years in the industry during the economic boom associated with the 2000 Sydney Olympic Games. These years should have been used to strengthen delegate structures, and improve leadership, communication, and activism 'on the ground'. He sees this time period as an important lost opportunity which is affecting the Sydney branch of the union to this day. In O'Brien's words (in personal interview, 15 June 2009):

"People are critical of the union that, during the Olympic boom, it didn't develop its delegate structures. It didn't maximize its opportunities in good times to strengthen its existing structures and rank and file involvement. This contributes to some difficulties they may be having now. Difficulties now can be traced to mistakes made by building unions onsite. This was before the legal

situation was difficult [2005]. This was after the amalgamation, late 1990s, early 2000s, in Western Sydney, when business picked up again and it was clear that there would be a favourable [economic] climate in the building industry”.

Simms (2007, pp. 448, 451) distinguishes theoretically between the ‘organising phase’ and the later ‘representation phase’ that involves ‘negotiating and enforcing collective agreements, and personal casework’ (Simms, 2007, p. 448). In CFMEU building site visits, both phases were combined although clearly there was specialization: Ferguson’s primary focus was organising whereas the calculation person’s, and to a lesser extent organiser Keryn McWhinney’s, focus was on personal casework (or ‘grievance work’). There was a concern expressed by Ferguson and CFMEU organisers to the researchers that bans on union entry to building sites (still in place technically in May 2008) meant that union presence necessarily had diminished on sites. Therefore, the union was no longer necessarily at the forefront of workers’ consciousness. Ferguson indicated his view that the rebuilding process would be challenging and difficult but not insurmountable (in Ferguson’s words: ‘it will be hard work; no magic solutions’). In part it rests upon the union’s ability to be proactive; to raise its profile physically on sites; and to be seen as relevant, approachable, and pro-worker. Younger workers, who may have known no other government than Howard-Costello (Van Onselen and Senior, 2008, p. 186), were especially the target of the CFMEU site visits. Ferguson perceived that there was a requirement to educate younger workers (Towers, 1987, p. 241) and migrant workers on the ABCs of the role and function of an independent trade union and the benefits of industry labour having a collective voice with the ability to secure concessions from bosses (Simms, 2007). The former leader of the Soviet Union Leonid Brezhnev spoke as follows in his 20 March 1972 address to the 15th Congress of the Trade Unions of the USSR:

“Lenin’s definition of the role of trade unions as a ‘school of communism’ implies above all the fostering of communist consciousness which is to be inseparably linked with the production activity of people, their work for the benefit of society. The keystone of the trade unions’ educational work is the inculcation in the mass of the working people of a truly socialist, communist attitude to work. ... As before, the Party will exert further efforts to see to it that the trade unions fulfil their role as a school of economic guidance, a school of economic management, and a school of communist attitude to work” (Brezhnev, 1975, pp. 238, 240).

In a capitalist country such as Australia, but where the building unions have a history of communist ideas and influence, the above quotation still seems prescient. CFMEU organisers discussed with the researchers how their activities have revealed that younger workers do not always know what the role and function of an independent trade union is. It is doubtful whether this is taught in schools and it is not clearly explained in the media or by government organizations. One worker asked an organiser at the Rhodes building site what the difference was between ‘the union’ and ‘super’!

The union team at the two site visits included Ferguson, two full-time organisers, a lawyer working with Taylor & Scott, and a retired construction worker Mr Barry Hemsworth serving with the team in a volunteer capacity. At each session, Ferguson opened by introducing the CFMEU, the purpose of this particular campaign, and the union strategy to rebuild influence on building sites. He encouraged workers to stay back at the end of the session and complete the union application form, talk to organisers if necessary, and/or have their pay slips checked to see whether superannuation entitlements had been paid correctly. There was openness in allowing workers to raise and address particular practical issues of concern to them (Feather, 1963, p. 46). As Simms (2007, p. 444) writes, ‘[t]he ways in which unions come to identify and define issues create understandings and expectations among organising

workers about how their interests are and can be defined'. At the Merrylands site on 14 May 2008, Ferguson made the following comments to workers:

"We have to rebuild our membership and influence onsite. ... Our goal is to attack non-union companies to bring them up to the standard. ... It's about priorities and then we work. If we set up a strike we will lose money and be fined and not exist. ... We are not going to use strike strategies now. [Prime Minister] Rudd is on the side of the employers and builders, contrary to media presentations. We have to rebuild our power on the sites. It's not going to happen if people don't support us".

Ferguson made the following significant comments to workers at Merrylands about the power balance in the construction industry that can be interpreted within the context of the industrial relations literature reviewed by Bain and Taylor (2008) and discussed in Chapter 3 of this book:

"In the next few years we will rebuild influence in this industry. Laws will change to be more sympathetic to collective bargaining. Our union will get stronger. ... Howard laws gave complete power to employers in the workplace. Employers have had so much power under the Howard Government. A Labor [ALP] Government is better than a Liberal Government but it is very scared of big business. ... The industry goes up and down and our influence goes up and down. There are no magic solutions, guys. ... Our challenge is to deal with non-union companies [that pay] no 'top-up' [union rate minus negotiated rate]. ... We are not trying to get more money out of union companies but are attacking non-union companies. Aim is to rebuild influence and membership on site. Recently we could not even have meetings like this".

After Ferguson, the long-serving CFMEU organiser Ms Keryn McWhinney spoke about the building industry superannuation fund CBUS as well as about worker superannuation, death benefit, and long service-leave entitlements. Her strategy involved educating workers, especially younger workers, on the benefits that CFMEU and its predecessors in the construction industry, including the BWIU and the BLF, have won for workers over preceding decades. These benefits

include, most significantly, an industry-wide long service leave scheme introduced in 1975 as well as taken-for-granted amenities such as onsite lunchrooms and toilets and the no-work-when-it-rains concession. McWhinney explained how construction industry unions won the long-service leave scheme and the additional benefit that the payments would no longer be at the minimum wage (as previously) but at the award rate plus productivity.¹⁶ As McWhinney stated, an additional concession won by the unions is that workers can get work credit for up to four year absences from work due to injuries, including non-work injuries, when computing long service leave entitlements. Workers legally operating as subcontractors rather than employees and having an ABN number also qualify for the scheme (another concession won by the unions). In McWhinney's words, as spoken to the workers at Merrylands on 14 May 2008: 'The union has fought for those changes in recent times to improve the scheme for construction workers'. As Simms (2007, p. 445) concludes:

"[O]fficials and organisers were able to make a case both to workers and to managers that they [issues] needed to be addressed and, of course, attributed any resulting improvement to the union's intervention".

Clearly the former Australian building industry unions won a range of working conditions improvements for workers and McWhinney aims to ensure that this strong legacy is not taken for granted.

After McWhinney, the Scott & Taylor lawyer spoke about workers compensation insurance and about how and when to claim to receive full entitlements. There were questions from the floor about free hearing tests and how these could be arranged. The lawyer explained how a percentage is determined for each worker's permanent injury(ies) such

¹⁶ EBA rate as at May 2008 was AUD22 per hour plus AUD6 per hour productivity allowance as compared to a typical AUD17-18 per hour at non-union companies.

as permanent hearing loss and how a once-off fixed sum payment is computed based upon this percentage. The sessions also involved the offer by McWhinney to check computations of superannuation payments on worker payslips. The discussion by organisers regarding death benefits reminded workers to take up and pay for four units of death benefit insurance so that dependent families could receive AUD200,000 (AUD50,000 per unit) in the event of the worker's death or AUD100,000 in the event of total permanent disability (TPD). Recent cases where a worker inadvertently had not updated his coverage and a family was left with an insufficient benefit were highlighted. Names and photographs of workers and families *humanized these cases* in workers' minds and indicated that such situations affect real-life workers such as themselves. The CFMEU puts into practice the Roman Catholic assumption that capital should serve labour rather than labour serve capital (as discussed in Chapter 3).

The sessions focused heavily on issues of monetary entitlements *already enacted into law* but which, through employer negligence or fraud, were not being paid on behalf of workers at the correct rates or amounts. Simms (2007, p. 444) comments that '[w]orkers may simply accept an issue as a fact of their working lives until someone highlights, for example, the law, or the potential for injustice'. Raising workers' consciousness of issues and reminding workers of the union's past and present ability to achieve tangible results on prior issues were the cornerstone aims of the union organisers' addresses. As Pyman *et al.* (2009) suggest, workers are more likely to join unions if they have had favourable positive experiences with unions in the past. Reminding workers of past union successes, however, may not have been necessary for old-time unionists and may be considered too far removed by some young workers only interested in the present and in the future.

What are we to make of this emphasis in organiser speeches on monetary entitlements rather than class consciousness, affirmative action, industrial disputes, or even workplace safety issues? At one level there is a desire on the part of Ferguson and his team to claim common ground with workers and help to rebuild lost relationships through a concern with the material wellbeing of workers within a general context of the need to hold to account unscrupulous employers. If workers are interested in monetary entitlements then the CFMEU is interested in this as well. As Brezhnev (1975, p. 238) writes, ‘trade unions also fulfil important functions which are directly linked with concern for the living and working conditions of Soviet people, for their welfare’. On another level, trade unions’ bread-and-butter for over a century has been pay disputes; Marxist economic theorist, philosopher, and activist Rosa Luxemburg (2005) [1906] writes that the trade unions in Russia from 1896 to 1905 first mobilized disaffected workers over economic bread-and-butter issues and only later did worker dissent spill over into political concerns. However, one possible downside in emphasizing monetary outcomes is that workers become vulnerable to monetary offers made by employers (or rival building unions as in Australia in the 1980s when the BWIU competed with the BLF) which are generous but which may impact adversely on the worker and/or on collective labour (Bramble, 2008; Feather, 1963, p. 37; Ross, 2004; Simms, 2007). As Palmer and McGraw (1990, p. 15) point out, ‘the lack of unity among unions moving into an industry provides the employer organization with the opportunity to play one off against the other’. Hence, in Australia in the 1980s, employers and governments were pleased to enlist BWIU support on occasion in order to crush the power of an ascendant and threatening BLF.

The addresses to workers during the sessions for the most part lacked class rhetoric, and militant action was neither mentioned nor advocated. The union organiser discourses were marked by their carefulness, restraint, logic, and professionalism. For Patrick O'Brien (in personal interview, 15 June 2009), this is what he has come to expect from the Sydney branch of CFMEU with its ALP culture and connections. He points out that ALP-style unionism will always be more bureaucratized, centralized, and restrained than non-affiliated unionism or unionism connected to political parties to the political left of the ALP, e.g. the still extant Communist Party of Australia (Marxist-Leninist) of which the BLF's Norm Gallagher was a member. Clearly the CFMEU organisers felt grateful in being able to enter worksites again and there was a desire to project a mature, blameless, and responsible image. Only Ferguson made occasional references to 'rich people' and the need to protect construction workers from the crafty scheming of such individuals. Simms (2007, p. 440) writes that 'strong group identities and ideological resources which allow groups to attribute perceived injustices to "managers" are important prerequisites of collective action'. Ferguson attempted to establish a discourse whereby previous and present State and Federal Governments, in addition to 'bosses' and 'rich people', were the authors of 'perceived injustices' to construction workers. There is a clear element of truth in this discourse since the Federal and State Governments of the 1980s, including ALP governments, bitterly persecuted and eventually deregistered the BLF.

Harry Williams points out, and the present authors concur, that there is no reason at all why select nuggets of Marxism could not be inserted into organiser building site speeches (Harry Williams, interjection, Newcastle University research seminar, 24 April 2009). Williams recalls BWIU organisers in the past telling workers that they

worked for themselves until Wednesday and for the boss for the rest of the week, a popularized reference to Marx's theory of surplus-value as unpaid labour time.

Interestingly, 'rich people' were referred to by Andrew Ferguson in the specific context of encouraging workers to transfer their super accounts to CBUS. It was mentioned that account-keeping fees at CBUS are AUD5 per month whereas other super funds frequently charge AUD20 per month. According to Ferguson, AMP deducts an 'admin' fee which is 'bullshit'. In fact, in Ferguson's words, 'some schemes charge five dollars per week'. As Ferguson stated to workers at the Merrylands shopping centre extension site: 'AMP control workers' money for the benefit of rich people - shareholders, running it in the interests of profit' whereas in reality 'it's your money'. Ferguson added: 'We own the [CBUS] money. No-one at the top is sucking out the money for rich people'. It appears that the class struggle has taken on a hue totally unforeseen by Karl Marx and Friedrich Engels: The battleground is now choice of superannuation fund; the proletarian revolution will be won when the full community of construction workers has transferred their super accounts to CBUS! However, the fact that half of the CBUS non-independent directors are nominated by *employer associations* (Gluyas, 2008a, 2008b) must cast doubt upon any assertions of 'workers' control'. The union sentiment here is obviously sincere. However, the campaign on this point raises a number of issues. Transferring super fund accounts to CBUS, in effect, means one group of salaried bureaucrats managing the workers' money rather than another group of salaried bureaucrats. Secondly, both CBUS and mainstream super funds invest in portfolios of company ordinary shares that pay dividends to shareholders and may not be committed at all to the workers' movement. Workers' transferring to CBUS strikes us a peculiarly postmodern form

of and site for class struggle! Workers' control, if it means class control, does not seem obviously in play here notwithstanding Ferguson's comments regarding rich people. Some workers might be alarmed at the ACTU and the big unions establishing an 'archipelago' of control and influence (Foucault, 1977) that extends from ALP seat pre-selections (Bramble, 2009, p. 19) to superannuation fund management. One important positive point, not mentioned at the sessions, but mentioned in CFMEU promotional material, is that CBUS invests deliberately in construction projects as its way of contributing to the future prosperity of the industry. However, investments in property constitute only 15.5% of total investments (Gluyas, 2008a).

Chapter 6

Focus groups with construction workers

The following focus groups were led by the first-mentioned author onsite at the Merrylands shopping centre extension site in Western Sydney on 14 May 2008. The two focus groups lasted 25 minutes each and were held in lunchroom cabins onsite during the workers' lunchbreaks. The first group was made up of six Bosnians and one Croatian. Number of years of Australian industry experience ranged from ten to 37. The second group was made up of five young workers, three Cook Islanders and two Australians. Number of years of Australian industry experience for this second group ranged from four months to six years (all these workers were steelfixers).

The groups were asked whether (a) 'they were satisfied with the services offered by the union?' and (b) 'how could the CFMEU better assist industry workers in the future?' The first group was a pro-union group of long-term industry workers. That these seven workers of various ages from a Bosnian/Croatian background chose to lunch together indicates the degree of ethnic community bonding and mutual support that occurs in the industry. All seven were working for the same subcontractor. They were enthusiastic and upbeat about the CFMEU organisers' site visit on that day. The two most senior workers, both with 37 years' experience, credit the CFMEU and its predecessor unions with achieving significant victories for workers such as lunchrooms, onsite toilets, the wet weather work ban, superannuation, pay rises, and the industry long service leave scheme. These two workers were very aware of the historical facts that union muscle and influence had gained workers these benefits rather than benevolent employers or government (Feather, 1963, p. 41). One of the workers noted that site allowances had

been one of the important benefits to have been won, only to be later lost, in NSW. In the words of one of the workers, acting as a spokesperson for the group:

“We hope the union will fight for us, for site allowances, conditions. Years ago the union was not very strong; we had no change rooms, sheds, toilets, nothing. The union changed all this. This was 18 years ago [1990]”.

Worker E, Bosnian with eleven years industry experience, added the following comment: ‘We hope the union can push wages up. One year back was the last increase of AUD50 cents’. Worker A, Croatian with 37 years industry experience, had the following parting message for the CFMEU:

“Keep going, fight back ... union fees are too high. ... Union service is getting better; now they talk to us. ... BLF was best for the workers, not this union – you could go for strike, no work in the wet weather, no work for hot weather; that is our feeling, our perception. [The late] Brian Miller [BWIU] was the best union organiser in Australia”.

O’Brien (in personal interview, 15 June 2009) confirms the degree of respect and fondness that construction workers had, and continue to have, for the late BWIU organiser Brian Miller. O’Brien states as follows: ‘Brian Miller was BWIU, well-known figure, safety man, good at his job, thorough; well-loved by the members, well-known’. These Eastern European workers are awaiting developments in the industry and expect and trust that the CFMEU can rebuild influence on building sites and win favourable outcomes. Their faith in unionism did not diminish during the Howard-Costello years and the CFMEU can rely upon many senior workers from migrant backgrounds to welcome a return to an industry context where union influence is stronger.

Australian migrant workers in the past have been, if anything, more militant than their Australian-born peers, as evidenced by the key roles

that migrant workers played in such historic battles as the industrial disputes at General Motors Holden (GMH) Elizabeth (Adelaide) and Fisherman's Bend (Melbourne) in 1964; at the Kortex textile company in Brunswick (Melbourne) in 1981; and at Ford Broadmeadows (Melbourne) in 1973 and 1981 (Bloodworth *et al.*, 1998, pp. 123-132; Bramble, 2003, 2008, pp. 30-32, 58-59, 112-113, 250). This focus group discussion confirms Pyman *et al.*'s (2009) observation that longer serving workers are more likely to join unions in particular because they have witnessed unions producing favourable results for workers in the past.

The second group of much younger workers, all aged in their late-teens to early-20s, represents an extremely challenging demographic for the CFMEU. These workers can be classified as those having had no experience of any government other than the Howard-Costello Government and their practical experience with unions is zero or minimal. One Australian worker told the researcher that his parents held strong anti-union views. He, however, did not offer any opinion. The opposition of his parents had at least piqued a curiosity in him about unions. In Worker A's words (Australian with one year industry experience):

"There is a lot of handing out money. My parents absolutely hate the union. They are very right-wing. [But in terms of union gains], there is nothing noticeable. What do they do for you? ... The union had better do something for us instead of sitting in the office all day. We have one change-room here but 60 plus workers, toilets six".

Worker B joined in the discussion: 'That's bad. Out of how many guys? Out of ten to fifteen there is one toilet'. Worker C, Cook Islander with five to six years' experience, added: 'we hope the union can help us money

wise [and in terms of working conditions] – [presently it is] morning smoko 15 minutes, lunch 30 minutes’.

When asked about their expectations regarding union support, Worker D, Australian with four months experience, commented: ‘We hope the union looks after us in all areas.’ Worker B agreed, stating that ‘we want to see some changes; money talks’. Worker A commented: ‘Look after the workers, big stuff, and parking’. Worker E, Cook Islander with five to six years’ experience, added: ‘Help us at work, bro. You know how you guys come once every three months? Come every month, check the safety’. Worker B concluded: ‘Now they are allowed onsite, before you could only see the union on your own time. ... I have mixed feelings towards the union, it’s alright [but] it’s just empty money’.

These younger workers did not offer any comments to suggest that they were fully familiar with the role of an independent trade union although the reference to the belief that more union team visits to building sites can improve site safety is significant. There was a youthful post-modern cynicism present where the workers expected the union to offer them real tangible benefits in exchange for union fees. This suggests a servicing model mentality. The workers spoke, in extremely general terms, of a hope that the union would ‘look after the workers’. It is doubtful whether this amounts to any form of class consciousness as that term is understood by Marxists (Simms, 2007, p. 440). It seems that younger workers view the union as a vaguely pro-worker bureaucratic organization that assists workers in the same way that an association might. Arguably, the primary difference between these two groups of workers is that only the first group’s members are old enough and experienced enough to have witnessed for themselves positive outcomes generated by unions (Pyman *et al.*, 2009). Both groups of workers focus heavily on worker entitlements and working conditions. Onsite facilities,

such as change-rooms, toilets, lunchrooms, and parking, are regarded as extremely important, although they are not monetary benefits. The younger workers also tend to want more personal and small group privacy during break times and do not want to share a small number of facilities with a large number of workers.

David Peetz (2006, p. 4), a Professor of Employment Relations at Griffith University (Australia), disagrees with the thesis that society is becoming more individualistic. He writes that '[s]ociety is not moving away from collectivism, which is a normal state of being in any society'. Likewise, O'Brien refuses to label, in his mind, younger workers as being more individualistic or different, pointing out from his experience as a CFMEU organiser that younger workers 'love strikes' when they occur (O'Brien, personal interview, 15 June 2009). O'Brien states (in persona interview, 15 June 2009), 'I never found them [younger workers] an anti-union grouping. I have found them good value when you are fair dinkum and helping them out'. (Note to foreign readers: 'fair dinkum' is Australian slang for 'honest, sincere, and trustworthy, not fake'). O'Brien also notes that even in past times workers still had to be convinced to join unions by favourable outcomes in negotiations and grievance cases so things are not really any different today. He does note that today many young workers work for labour hire companies as casuals. These people are the least likely to be unionized whereas in the past a company would employ eight or ten people to clean up the sites and do jobs such as jack hammering. These once full-time employees were the natural constituency of the BLF and 40 or 50 years ago they represented a highly unionized grouping. The proper question, in O'Brien's opinion then, is not 'why are younger workers individualistic?' but 'where are the younger workers?' Lastly, O'Brien, consistent with Peetz (2006, p. 31), did accept the view that there are probably fewer younger workers today

who could be considered ‘natural unionists’, i.e. people dedicated to unions due to the influence of family or friends or for ideological reasons. However, O’Brien says: ‘I never let that put me off and I never looked at young people as a group as a group adverse to unionism. They were mostly positive and willing to listen, starting work in a physically demanding industry’. We agree with Harry Williams (interjection, University of Newcastle research seminar, 24 April 2009) that the demise of the communist parties, both in Russia/Eastern Europe and in Australia, has had the effect of removing from workers’ consciousness that there exist alternative economic systems to free-market capitalism. As such there are now fewer ‘natural unionists’ in the industry as compared to 50 or 60 years ago.

Chapter 7

Asbestos scare at Merrylands shopping centre extension site

This micro-case demonstrates the ‘process of interest formation’ (Simms, 2007, p. 442) or, in other words, ‘how workers’ interests come to be identified and expressed’. Following Associate Professor Melanie Simms (2007, p. 442), of the University of Warwick, we acknowledge, and demonstrate here, how the ‘collective interests [of workers] are socially constructed’. We agree with Simms (2007, p. 442) that:

“...understanding the effects of the processes of interest formation in the early stages of unionisation contributes to our understanding of unions’ ability to engage with new groups of workers and to express their interests”.

The micro-case also demonstrates the adaptability and flexibility of CFMEU organiser Mr Mal Tulloch who adjusted the union position in response to demands voiced by a vocal but small group of younger workers. The fact that the CFMEU took up free asbestos testing for workers as a campaign issue in this particular micro-case is consistent with Simms’ (2007, p. 446) theory that unions select and prioritize those potential campaign issues that are: (a) winnable; (b) salient; and (c) will gain collective support. The asbestos issue, and especially at a St Hilliers’ site, given that this was not an anti-union builder, clearly satisfies all three of these conditions. The fact that workers first initiated the issue by contacting CFMEU when asbestos was found on the building site (Bartok, 2008) increased the union’s confidence *ex ante* that the issue was winnable, salient, and would receive collective support. Since the safety committee and workplace delegate played key roles in the resolution of the dispute, working in tandem with the CFMEU organiser,

the events in this micro-case reveal a mix of the servicing and organising approaches.

This micro-case involved an issue that had been escalating over several months as a result of non-action by the building company St Hilliers Contracting Pty. Ltd. (hereafter St Hilliers) after promises made by it to workers that all workers working on the Merrylands shopping centre extension site on the day that the asbestos was discovered would be given free onsite lung-testing (which ordinarily costs around AUD100 per worker).¹⁷ Since no action had been taken, despite negotiation between the company and Tulloch representing CFMEU, the issue came to a head on the day that the first-mentioned author visited the Merrylands site with the union team (14 May 2008). The eventual satisfactory resolution of this issue, firstly among a meeting of all union-friendly workers on site and then at the safety committee meeting, demonstrated both the power of collective union action to ensure that prior commitments are kept and the ability of the union to alter its maintained position in response to vocal worker opposition. These meetings and the final negotiated resolution occurred on the afternoon of 14 May 2008 after individual groups of workers had met the CFMEU team for 30 minutes each throughout the morning. Since the CFMEU's goal in these small group meetings (discussed in Chapter 5) was to rebuild influence on building sites, clearly the goodwill created during the morning could have rapidly evaporated had the CFMEU not been willing to alter its maintained position in the afternoon.

The 1.30pm mass meeting took place on the floor of the construction site rather than in the lunchroom cabins. It appeared that the meeting had been called spontaneously and had not been scheduled.

¹⁷ The St Hilliers official company website address is <http://www.sthilliers.com.au/> [accessed 13 April 2010].

Since it was conducted on the floor of the construction site, inside completed sections of the shopping centre extension itself, it was clearly held on ‘workers’ territory’. It appeared that most or all of the workers had stopped work and moved over to this side of the extension project to hear Tulloch speak. The attendance at this 1.30pm meeting of around 60-100 workers amounted to all or nearly all of the workers that had attended the earlier small group sessions. These workers would be union members, those interested in joining the union, and union sympathizers (Pyman *et al.*’s ‘union membership plus unmet demand’). Workers were gathered in a semi-circle as Tulloch spoke. Tulloch reiterated CFMEU’s maintained position that the union was willing to enforce its will that St Hilliers would abide by its prior promise to test workers present on the site *at the date of asbestos discovery* for free on the site itself. An earlier informal meeting of Tulloch and the safety committee (headed by the union delegate, Graham (name changed)) had decided that, if St Hilliers would not take concrete steps today to honour its promise, then construction workers would occupy the original open-for-business part of the shopping centre next day to stage a peaceful protest. Workers had indicated their willingness to be involved in this protest. It appears that it was this intention to protest, as communicated to the builder, which led to the company’s new willingness to take further action to initiate the tests. This finding is consistent with the case studies in Bain and Taylor (2008), discussed in Chapter 3 of this book, where unions that take active industrial action are more likely to win satisfactory outcomes as opposed to the more passive right-wing unions that choose to only contact parliamentarians, lobby customers to lobby employers, and/or conduct muted PR strategies.

It appeared that the meeting of the 60-100 workers and Tulloch was designed by the union to simply communicate developments to the

whole of the union-friendly site workforce. However, a group of three or four younger workers, standing in a group at front and centre of the gathering, challenged Tulloch to amend the negotiated agreement so that *all workers presently on the site* could receive the free testing. Concession here would have meant altering the CFMEU's maintained position that had been enshrined in the earlier agreement with the builder and had also been used in negotiations with the builder earlier in the day. Tulloch explained that the union needed 'evidence' and could only put forward a position with respect to a single site. In Tulloch's words, 'you can't go back and fix things from the past' and he stated a commitment to abide by process. He stated that the union wanted worker support for collective action.

Interestingly, the younger workers were not hesitant to argue forcefully with the union organiser nor were they reluctant to upset his decorum. The younger workers argued that the payment of union fees should result in all union members having access to the benefit of the free tests, a cogent mix of individualist and collectivist arguments. These events amply demonstrate Peetz's (2006, p. 211) argument that '[w]orkers [of all ages] are simultaneously individualistic and collective'. One young worker threatened non-payment of union fees should the union not adjust its position. At first it appeared that neither party would back down. It is to the CFMEU's credit that Tulloch evaluated the merits of the arguments presented on the spot and a new CFMEU position was reached that would accommodate the younger workers' request. As in Heery and Simms (2008), union organiser creativity, flexibility, and responsiveness can be expected to play vital roles in overcoming external and internal constraints. O'Brien (in personal interview, 15 June 2009) states that good organisers need to know 'which way the wind is blowing on the floor' and make the necessary adjustments on the spot. O'Brien

credits Tulloch here with 'good organising'. However, O'Brien suggests that, back in the 1960s and 1970s, asbestos was viewed so seriously that it meant immediate downing of tools and walking off the job. For O'Brien, the facts of this case clearly demonstrate changed circumstances in the industry leading to changed union strategy.

It is interesting to note that this group of younger workers met with no clearly visible response, positive or negative, from any of the other workers gathered at the meeting. All seemed to recognize that, with the election of the Rudd-Gillard Government, a new chapter had opened in the history of Australian trade unionism; in fact a new dialectic has emerged: on the one hand the CFMEU will probably re-gain at least some of its historical influence on building sites and the opportunity is there for its power to expand significantly. In Heery and Simms' (2008) terminology, two key external constraints have been or are in the process of being removed: Howard-Costello Government harsh workplace laws and Howard-Costello Government anti-union hegemony. However, contrary to the fears of conservative media commentators, a new dynamic will come into play where younger workers will no longer passively accept union dictates where these clearly infringe their sense of justice and individual entitlement. It appears that, in this new post-modern era, not only building company bosses but CFMEU organisers as well will become more accountable to both the individual and collectivist voices of labour. The CFMEU's own legitimacy will be continually tested and be continually re-evaluated in the light of new information. The CFMEU does not need to fear this. As this micro-case demonstrates, the CFMEU altered its maintained position quickly during the course of a day, listened to and accepted the arguments of as few as three younger workers out of a union-friendly workforce in the region of 60-100, and won a satisfactory resolution from the building company on the basis of

this new position. The cynical picture that former ALP federal leader Mark Latham (2005, p. 254) pictured in his controversial diaries of trade union officials seated around a table at a Chinese restaurant deciding everyone else's futures is way off the mark. The younger generation of workers (specifically the under-30 demographic) was responsible for voting out the Howard-Costello Government in November of 2007 and has a new found sense of its own power.

Immediately following this meeting a second meeting was held. As Tulloch stated in personal conversation with the first-mentioned author, 'the safety committee meeting was spontaneous to take advantage of the union being onsite'. It was held in a lunch cabin with union delegate Graham and the other safety committee members present along with a building company representative (the project manager Mr Max Baroni) and Tulloch. Other CFMEU organisers, including the new recruit Mansour Razaghi, sat at the back of the room but did not participate in the meeting. The first-mentioned author sat down next to Mansour and occasionally asked him, in hushed tones, who various people were and what was happening at particular stages in the meeting. It was noted by Tulloch and the workplace delegate Graham that originally St Hilliers had agreed for testing to take place in the six to eight weeks after 8 March 2008 but that this had not happened.

One point of dispute was whether the subcontractors' workers' tests would be paid for by St Hilliers (this was the union position). St Hilliers had been advised by their lawyer, according to Tulloch (in later personal conversation on the same afternoon with the first-mentioned author), to 'push the testing cost on to the subcontractors' and to 'hush the matter up'. The safety committee meeting was conducted in hushed tones and it was over quickly: Tulloch put forward the new proposal, St Hilliers' Baroni acceded to it, and there was some practical discussion over where

the tests would be held. The new union proposal to test all workers on the site as at the date of the meeting was quickly accepted by Baroni. Having workers occupy the open-for-business part of the shopping centre next door was clearly not a prospect that St Hilliers relished. The threat of peaceful protest was nearly as effective as an actual strike would have been given the circumstances of the case and given the easy access of workers to the completed part of the shopping centre next door.

Tulloch indicated to the first-mentioned author that there was strong union support on this building site (as stated previously St Hilliers had an EBA and union density on site was 60% including St Hilliers and all sub-contractors). Tulloch also mentioned that the CFMEU was fortunate that union delegate Graham was a committed union person, had many years of experience in the industry, and was highly respected by the workers and by the building company management. As stated previously, St Hilliers was a 'union company' with an EBA and so this was not a hostile meeting. For most workers on the site, except perhaps the youngest, there was a 'culture of trade unionism' on the site (Simms, 2007, p. 449). Tulloch's positive observations regarding the union delegate Graham are consistent with the prior literature cited by Simms (2007, p. 440) where she notes that shop stewards (workplace delegates) play a 'central role' in 'forming and expressing workers' interests'. Consistent with the organising model, the union delegate works to create counter-hegemony on site that is pro-union. However, although no-one mentioned it in the 'union car' on the 20-minute drive back to the CFMEU Lidcombe office that afternoon, it is probably fair to suggest that everyone on the union team, and possibly many workers as well, were shaken up by the ferocity of the not unreasonable demands of the younger workers. CFMEU, represented by Tulloch, demonstrated to all workers on the site that it was willing to lose

face publicly by reversing its maintained position in the interests of keeping workers supportive; workers' safety interests were clearly paramount in Tulloch's mind. Kelly and Heery (1994) emphasize the role that good union organisers play in 'identifying collective agendas but also in ensuring that they are expressed effectively' (cited in Simms, 2007, p. 440). Tulloch performed these services effectively but he also empowered, structured, motivated, and guided the safety committee in a manner consistent with the organising model rather than the servicing model. Tulloch demonstrated adaptability and flexibility within a high-pressure environment on site; he did not simply perform designated tasks in a mechanical manner. There may be an element of 'bureaucratising tendency' or 'conservatism' (Bramble, 1993, p. 56; Simms, 2007, p. 440) among CFMEU organisers associated with the Sydney branch (at least when compared to the historically more militant Victorian branch or when compared to the BLF). However, the CFMEU's Tulloch in this micro-case showed a capacity and willingness to break that mould and pro-actively adjust his position to accommodate worker demands. Simms (2007, p. 441) points out that, as unions attempt to engage with groups outside the 'traditional' union constituency, they are forced to 'adapt' in order to succeed. Tulloch here demonstrates that necessary adaptability. Significantly, Simms' (2007, p. 446) assertion that '[i]nvariably ... issues affecting only a particular group of workers are sidelined in favour of issues likely to appeal to all workers' did not apply here; CFMEU was willing to act to negotiate to achieve a satisfactory outcome for only a small group of affected workers.

Simms (2007, p. 444), furthermore, states that, in the British union campaigns she witnessed, 'in general, most of the issues around which the unions campaigned were identified by union professionals'. As stated previously, this was not the case here as it was building site workers that

called in the CFMEU when asbestos was first discovered at the Merrylands site (Bartok, 2008). This is consistent with high density on the site and a proactive union delegate. However, consistent with Simms (2007), the exception to the general rule of union initiation of issues did occur at Merrylands in relation to a ‘highly controversial issue ... where norms of “fairness” had been breached’ (Simms, 2007, p. 445).

Chapter 8

The Mr Kim case

Information about Mr Kim's case was obtained through an initial 30-minute personal interview in the CFMEU Lidcombe headquarters in Western Sydney. As Kim speaks no English, the interview was conducted fully in Korean with the CFMEU's Mr Chikmann Koh (full-time organiser) acting as interpreter. This interview was conducted on 15 May 2008 by the first- and second-mentioned authors jointly. Kim also participated in a one-hour focus group on 15 May 2008 with six other participants and with the first- and second-mentioned authors acting as joint facilitators. Interpretation from Korean was, again, provided by Koh. The focus group took the place of the regular English class scheduled for that night with the express agreement of all concerned. The regular class English teacher was also present and assisted with clarification of questions and responses. Kim's case was reported in the *Sydney Morning Herald* and in five of Sydney's Korean language periodicals (a daily newspaper, four weeklies, and a magazine) during 2006-2007. Some clarification regarding facts of the case was provided by the CFMEU's Andrew Ferguson (via e-mail to the first-mentioned author) after the completion of the researchers' field work.

Mr Jin-Wook Kim (real name, used with permission) is a South Korean national who from 2004 to 2006 was employed by a Korean-owned company Rexma Pty Ltd (hereafter Rexma) in Sydney. The company is a small concern with only five workers and it operates a plastic recycling business. As such it is technically outside the orbit of CFMEU but that did not mean that the union was unwilling to help Kim. Kim was originally hired by BP in the UK and sent for further training at a group company of BP located on Australia's Gold Coast. He arrived in Australia in 2003 on a tourist visa and a UK working visa. Kim was

arrested by police after he had a traffic accident and had been found to be driving using only an international licence. He contacted the Korean embassy and consulate office but they refused to offer him any assistance. In order to avoid deportation, he then moved to Sydney which has around 60 percent of Australia's total Korean population of 120,000.

Rexma advertised the position in a Sydney-based website that serves the Korean community. At the time that Rexma hired Kim it was fully aware that he was on a tourist visa and was not legally entitled to work in Australia. He worked seven days a week for an average of 16 hours per day for three years at Rexma, receiving no superannuation, benefits, travel allowance or overtime payments. Kim was paid AUD10/hour cash-in-hand. Kim was not insured. Clearly these working terms allow for the maximization of extraction of surplus-value from the worker. There is not even any lost-time for changing shifts! Although the hourly wage rate seems very low (and illegal) but possibly not shockingly exploitative it has to be remembered that Kim could not choose the number of hours he worked. He was forced into working an excessive number of hours each day. To the extent that Kim's subsistence level of wages is lower than that of workers accustomed to working under Australian conditions (Marx, 1976a, p. 275), surplus-value increases proportionately. Marx's (1976a, pp.781-794) assertion that the presence of the 'industrial reserve army of labour' (Engels, 1987, pp. 118-119) acts as a 'regulator of wages' (Mandel, 1978, p. 22; Marx, 1976a, p. 790) certainly appears to hold some validity here. Illegal foreign workers may well push down wages in certain sectors of the construction industry for 'non-union companies' (those without an EBA) unwilling to pay the 'union rates'. Kim was working under conditions below the *physiological* minimum, in our opinion, since the working hours were too long to be sustainable long-term

(Mandel, 1976, p. 69; Marx, 1976a, pp. 275-277). When we met Kim his health had already begun to fade; he wore dark sunglasses at night, spoke in a frail whisper, and was extremely thin.

Koh states that Kim was a 'good worker under very hard conditions'. This case is an example of gross exploitation by a Korean company of a fellow Korean. According to the CFMEU's Koh, much exploitation in the industry in Sydney involves the exploitation of a Korean by a Korean, a Croatian by a Croatian, etc. Koh's opinion as to why this happens is that employers know the probable 'weak points' or pressure points of someone from the same cultural background. Therefore, workplace hegemony and control can be more complete and effective (Alawattage and Wickramasinghe, 2008).

Kim sustained two accidents at work: a minor accident in 2005 and a major accident in 2006 where four fingers in his dominant right hand were completely severed. He also suffered serious psychological injuries. Rexma paid medical bills for an initial basic treatment of AUD3,600. The company promised Kim that his full medical expenses would be paid and that he would receive after his treatment an hourly wage equal to 70 percent of his pre-injury hourly rate. Neither of these promises was kept in full or in part. Kim was forcibly discharged from Sydney's Canterbury Hospital after Rexma refused to pay his AUD100,000+ of medical expenses. Only after the accident did Kim realize that the company had not been paying workers' compensation insurance. As a result of the hospital discharge, Kim was left destitute on the streets of Western Sydney unable to work and with a visa that was invalid. To literally add insult to injury, Rexma contacted the Australian Immigration Department to report Kim's illegal worker status even though originally it had hired him in full knowledge of that status. In Koh's words, at the interview with the researchers, 'everything [in his case] was illegal from

start to finish'. In response to a question by one of the researchers, Koh explained that Rexma's motive for contacting Immigration to report Kim must have been that the fines for hiring an illegal worker of around AUD10,000 are much lower than Kim's AUD100,000 plus of medical expenses. Therefore, financially, the company was acting in its own best interests, using crude cost-benefit criteria, by reporting Kim to the Immigration Department. The ethical implications in certain contexts of our supposedly technical and neutral accounting and finance tools are clearly apparent here. We need to educate accounting and finance students that these tools are not merely mechanical aids but can facilitate wealth transfers from labour to capital. As Feather (1963, p. 104) writes, '[t]rade unions are not businesses or companies and are not run on the basis of cold-blooded accountancy'. Cooper *et al.* (2005, p. 960) state that 'our labour has been commodified' under capitalism and clearly, post- the accident, Rexma was no longer interested in purchasing any more labour-power from Kim or in compensating him for his medical costs incurred as a result of his earlier injury.

Kim contacted CFMEU on the recommendation of a fellow Sydney-based South Korean. Koh's experience is that the various ethnic communities in Sydney tend to be unwilling or unable to help in cases such as Kim's. These are cases that require substantial investments of finances and legal expertise if they are to be fought through to a successful conclusion. All that the ethnic communities can and do offer is what Koh terms 'symbolic sympathy'. The CFMEU's Ferguson paid Kim AUD500 cash out of his own pocket on first meeting Kim and, in Koh's words, 'he really appreciates this'. After receiving an advance of several thousand dollars from the union (that he later repaid out of the negotiated settlement), Kim rented accommodation in Campsie, a largely Korean suburb in Western Sydney only a few kilometres from the union

office in Lidcombe. He also lodged, with CFMEU assistance, an application for periodic workers' compensation from the government organization NSW WorkCover (if the worker is uninsured the government pays). CFMEU's radical compassionate left-humanitarian perspective is very obvious here and it should be noted that at the time he first contacted CFMEU Kim was not a financial member of the union nor had he been working in a trade within the union's orbit.

CFMEU used extremely imaginative peaceful methods (Bain and Taylor, 2008; Heery and Simms, 2008) to pressure and embarrass the Rexma owner including distributing Korean language leaflets throughout Campsie and speaking to the minister at the Rexma owner's Korean church. The case was highlighted in *Sydney Morning Herald* (*SMH*) and in several Sydney-based Korean language publications. The *SMH* article caught the attention of the government and the owner's factory was inspected and a prosecution resulted. The Korean press articles resulted in the owner being 'embarrassed and humiliated' (Andrew Ferguson's words, in personal interview with the first-mentioned author, 24 March 2008) in the eyes of the Sydney Korean community. Rexma is suffering from a crisis of legitimacy in both the Korean and broader Australian communities as a result of the leaflet drops, church visit, and government intervention. As a result of the imposition of appropriate pressure on the Rexma owner's 'weakest link' (Lenin's theory of the 'weakest link' seems to have been a lesson mastered well by the CFMEU), a negotiated settlement was reached whereby Rexma paid an after-tax amount of AUD50,000 (before-tax AUD70,000) to Kim for 'underpayment of past wages'.

Kim is presently on a bridging visa (at date of interview/focus group) and CFMEU assists by writing to the Immigration Department periodically to outline to them the progress on Kim's case. The matter of

the amount of lump-sum compensation for TPD (Total Permanent Disability) is still being fought in the courts. When Koh was asked by the researchers as to his opinion regarding whether the case had made a powerful impact upon the Sydney Korean community, he responded that there was interest in the case at the time it appeared in the newspapers but that the interest seems to have died down. Koh's view differs from that of Ferguson who is more optimistic about the lasting impact that the Kim case has had on the community. Whilst at the time of the case 'symbolic sympathy' was offered, Koh doubts whether there has been any major change in Korean community awareness or attitudes since the incident which has probably already been forgotten. Koh understates it when he says that 'the Korean community should take a lesson from his case'. Nonetheless, the immediate pressure imposed by CFMEU resulted in the Rexma owner offering a negotiated financial settlement which represents one important result. In addition, CFMEU now has 500 Korean members according to Koh (as at 15 May 2008) which represents around 10%-12.5% of the 4,000 to 5,000 Korean ceramic tilers presently working in Sydney. Clearly, the compassion of CFMEU, as well as obviously its ability to generate a satisfactory outcome, in the Kim case may have prompted other Koreans to commit to become CFMEU financial members. Regarding Ferguson's occasional helping of non-union members, such as Kim, O'Brien makes the following comments (personal interview, 15 June 2009):

"Ferguson often helps non-members to try to make a point; that is potential good publicity. The union has to get into these groups. In Korean and Middle Eastern areas, they were able to recruit people; it was an advertisement to the membership to have people [i.e. organisers] of these backgrounds. ... These communities reflect the countries of origin. So you may be able to pick up some members there but moving to a position of strength among these communities is not so easy. They [CFMEU] have had some wins here and there and helped people out in emergency circumstances, for example, unpaid wages, employer goes bankrupt, etc. They have had the successes in those areas. It is quite likely

the case that the union can get outcomes for their workers in NESB [Non English Speaking Background] communities. They would have a lot less success in regulating day to day conditions in these industries”.

O’Brien’s distinction here between obtaining satisfactory one-off outcomes *ex post* and changing day to day working conditions *ex ante* is an extremely important one, and one that Ferguson and Koh do not tend to dwell on. Will the CFMEU be able to change ethnic communities’ working cultures so that events like the Kim case recur less frequently?

Returning to a discussion of the Kim case, we observe that CFMEU’s series of peaceful protest tactics, where each element of the tactic complemented all of the others, required a well-resourced and self-confident organization. There was no hint of illegality and the CFMEU is careful to avoid any form of strike action by its employed members, especially sympathy strikes, i.e. secondary boycotts (banned in Australia since 1996). Such actions result in heavy fines and also tend to play into the hands of anti-union politicians and media commentators who are ready to pounce at the first sign of ‘union thuggery’. As someone thoroughly trained in ALP culture and wisdom, Ferguson is too shrewd and sophisticated to fall into such traps much to the chagrin of old-time Marxist union activists who might prefer a more traditional BLF-style approach. The forced deregistration of the BLF remains in everyone’s minds but, if the spirit of the BLF lives on today, it can only be through the CFMEU. Instead of sympathy strikes, CFMEU employed, in the Kim case, peaceful campaign tactics involving union organisers and the injured worker himself. The close ALP connections of Ferguson suggest expert strategic and tactical understanding of conflict and negotiations and a reluctance to contemplate illegal tactics. The CFMEU strategy of reaching out to South Korean workers, through Korean speaking organiser Koh, is an intelligent one since South Korean workers hail from a country with a history of labour radicalism borne in part on the

Korean shipyards (Harry Williams, interjection, Newcastle University seminar, 24 April 2009). Therefore, the education process for South Korean workers coming into the CFMEU's sphere of influence in Sydney is quicker and easier than for Chinese workers who have no experience of independent and self-confident trade unionism in their own country. Whilst the CFMEU may assist Chinese workers in one-off cases (the hiring of organiser Yu will clearly help in this regard), the payoff to the union is likely to be higher and faster with the South Koreans in terms of the percentage of assisted workers who go on to become committed trade unionists. Koh is also building up a strong working relationship with the president Philip E. Oh and the secretary Peter Shin of the community social and mutual support organization the Korean Tiler Association of Australia (KTAA).¹⁸ The fact that South Koreans in the Sydney construction industry tend to be concentrated in the ceramic tiling trade suggests that recruitment and ministering to members' needs is relatively easier for the CFMEU than if the South Korean membership was more spread out across the trades. The consolidation of industry unions into the CFMEU has also facilitated rapid inclusion of the Korean group into the CFMEU and facilitates communication with the workers.

The last word on the Mr Kim case rightfully belongs to Koh:

"Nobody supported him [Kim] from community, police, etc. [until CFMEU became involved]. ... Without union support he cannot get proper treatment or compensation. No other organization can solve this problem except CFMEU which he really appreciates. Our [CFMEU's] support is still going on. After the [medical] treatment he [Kim] will do anything the union wants whether he is in Korea or Australia" (in personal interview with Kim, conducted by first- and second-mentioned authors jointly, interpreted by Koh, 15 May 2008).

¹⁸ This social support group plays an important role in supporting Korean ceramic tilers and helping newcomers to enter the industry (see our Chapter 11 micro-case).

Chapter 9

The Wollongong hotel Chinese workers case

Information on this case was obtained from a one-hour personal interview by the first-mentioned author with the CFMEU's Andrew Ferguson at CFMEU HQ on 24 March 2008 and from newspaper articles and internal correspondence. Unfortunately, none of the workers involved could be accessed by the researchers to participate in the focus groups conducted at the CFMEU Lidcombe headquarters on 15-16 May 2008. This is partly due to CFMEU having had no Mandarin- or Chinese dialect-speaking organiser as at the focus group date (and hence no-one to 'encourage' participation in the study) and the fact that these Chinese workers, according to Ferguson (in personal interview, 24 March 2008), are 'blow-ins', i.e. not long-term members of Sydney's construction industry.

The 'Wollongong hotel case' involved around 40 young Chinese workers, new to the industry and working illegally on student visas, being unpaid in wages to the total of around AUD216,000 plus superannuation entitlements of around AUD34,000. Clearly, the Chinese workers are an 'industrial reserve army' (Engels, 1987, pp. 118-119; Marx, 1976a, pp. 781-794) in relation to global capitalism and the non-payment of wages without any valid reason resembles Marx's (1976a, pp. 873-940) discussions in Volume 1 of *Capital* about 'primitive accumulation' (i.e. theft). This is 'primitive accumulation' rather than 'capitalist exploitation' since the expropriation of value occurs outside the regular production process and the regular 'circuit of industrial capital'.¹⁹ Nonetheless, the effect is the same: to increase the rate of profit for the building company. The workers were hired to work on a

¹⁹ Regarding Marx's 'circuit of industrial capital' formula for a manufacturer see the equation in Bryer (1999, p. 556) and Marx (1978, p. 132).

luxury hotel complex, the AUD50 million Mantra Hotel in Harbour Street in the coastal city of Wollongong, located 82 kilometres south of Sydney (population 284,169). The 169-room, four-and-a-half star hotel is a joint venture between construction firm Parkview and owner Jempac (not to be confused with Jantom) (McInerney, 2008a). Construction began in late 2006 and it is scheduled to be completed in late 2008 (McInerney, 2008a). The developer used a principal contractor (builder) for the site Parkview Construction and Parkview used a sub-contractor called Jantom for gyprock construction. The hotel, when completed, will be managed by the Stella Hospitality Group, owners of upmarket hotel chains Peppers, Mantra and Breakfree, and a wholly-owned subsidiary of the former ASX Top 200 listed investment and funds management company MFS Limited (MFS) (Australian Government Workplace Ombudsman, 2008; Stapleton, 2008b).²⁰ The involvement of the MFS/Octaviar subsidiary Stella in this micro-case shows that exploitation in Australia is sometimes perpetrated by large mainstream organizations that see shareholder wealth maximization as their primary objective. As Stapleton (2008b) correctly points out, '[t]he alleged ill treatment of the Chinese men is made starker by the luxurious nature of the hotel'. However, this is simply the classic Marxian dialectic in action: increased wealth created by capitalism but also the increasing (emotional, spiritual and physical) impoverishment of the worldwide proletariat with both aspects emerging simultaneously out of the same (globalized) system. If the ideology of accounting, the self-consciousness

²⁰ As at 9 April 2010, MFS Limited no longer appears in the ASX Top 200 List; see <http://www.anz.com/aus/invest-and-insure/product-and-services/Online-Investment-Account/PDFs/ASX200.pdf> [accessed 9 April 2010]. The reason is that Octaviar Limited (OCV), formerly MFS Limited, was delisted from the ASX on 1 September 2009 according to the Datanalysis database held at the Library of The University of Southern Queensland; see <http://datanalysis.morningstar.com.au/af/company/corpdetails?ASXCode=OCV&xtm-licensee=dat> [accessed 9 April 2010].

of capital, 'dehumanizes' (Mandel, 1976, p. 65) workers, then it is not surprising that workers are often mistreated. As Mandel (1976, p. 65) writes:

"Capitalist economy is thus a gigantic enterprise of dehumanization, of transformation of human beings from goals in themselves into instruments and means for money-making and capital accumulation".

The gyrocock sub-contractor Jantom then used a sub-sub-contractor, an elusive Chinese national known as 'Michael' whose job it was to round up a group of Chinese workers and put them to work on the project. According to the CFMEU's Ferguson, Michael's *modus operandi* was, and was known by Jantom to be, to 'grab cheap labour, co-ordinate them and send them to building sites' (Andrew Ferguson, in personal interview, 24 March 2008). These workers were to be paid cash-in-hand. Michael uses Chinese cultural hegemony and control to recruit and organize the workers and to deliver them to building sites (Alawattage and Wickramasinghe, 2008). However, above all else, he is an agent of global capitalism. After a while working on the site, the cheques stopped coming or they rebounded. The Chinese workers were left out-of-pocket with the Christmas break coming up. In media releases, the CFMEU *humanized the workers* by referring constantly to 'unpaid wages before Christmas' and 'unable to pay rent or buy presents for girlfriends'. The CFMEU, in aiming to humanize the workers, was effectively opposing the ideology of accounting which, as we have seen, dehumanizes workers. Overall, they were not paid for the four months from 27 August to 17 December 2007 (McInerney, 2008a, 2008b) and had (illegally) not been paid any superannuation since commencing the job. Individual workers were owed amounts ranging from AUD1,500 to AUD14,000 at the time that the payments stopped (Roberts, 2008). During Christmas break, a worker had left a message on the CFMEU telephone system

outlining what had happened. 'Just after Christmas', AUD20,000 was paid to the union (Roberts, 2008).

In internal correspondence between CFMEU and Jantom (addressed to Andrew Ferguson, dated 10 January 2008, and signed by Bruce Bian of City Law Solicitors), that we have been given access to by the CFMEU for the purpose of this book, Jantom claims that wages were fully paid to Michael who is someone 'not to be trusted'. Jantom thus allege that Michael 'stole all the money' (Ferguson's words in personal interview, 24 March 2008) but the factual content of this assertion is impossible for any outsider including CFMEU to verify due to the absence of paper trails. Jantom wanted to pay zero on the grounds of there being no legal responsibility to pay. The letter from Jantom to CFMEU states that '[w]e are instructed that Michael should not be trusted and that the subject dispute has arise [*sic*] because, most likely, Michael did not properly pay his employees from the monies [*sic*] he had received from our client'. The letter claims, furthermore, that 'our client has paid Michael and his authorized agents over AUD400,000 under the agreement, including wages for his employees'. However, 'our client does not have an employer-employee relationship with Michael's employees' and hence 'our client is not responsible for paying wages to Michael's employees'. McInerney (2008a) reports that Jempac claimed to be unaware of the union's claims, when contacted by the *Illawarra Mercury*, and referred the newspaper to Parkview. According to Stapleton (2008a), the Jantom office telephone number listed, on its website, had been disconnected during the dispute. A spokesperson for Stella Hospitality Group claimed that payment of the workers was not its responsibility while Jempac director David Shalala said it had not hired the men and referred inquiries to Parkview (Stapleton, 2008a). For its part, Parkview would not respond to requests for information made by

The Australian during the dispute. According to McInerney (2008b) and Stapleton (2008a), Mr Chun 'Michael' Shan-Lui, age 41, claimed that he was owed payment for 62 days work. He has two children and is four weeks behind in his rent. Michael's claims directly contradict those made by Jantom in its correspondence with CFMEU. Chun claims that he and two others went to the office of Jantom Construction on 18 December 2007 demanding payment of wages and were given a cheque for AUD20,000 that was cancelled before an attempt was made to cash it on 3 January 2008 (McInerney, 2008b). Chun claims that, on 22 December 2007, the men returned to Jantom and were told that the money had been paid to CFMEU (McInerney, 2008b). Ferguson claimed that no money had been received by CFMEU (McInerney, 2008b) although Roberts (2008) reports that 'just after Christmas' CFMEU received AUD20,000. According to Roberts (2008), Jantom had said, throughout the length of the dispute, that it [Jantom] was not responsible for the wages because it had hired a third party to hire workers. Chun claims that no-one was paid. Prior to the negotiated settlement, all parties denied having any obligation to pay the workers concerned.

CFMEU's objective in this micro-case was not necessarily to discover the true facts of who had paid whom but simply to put pressure on 'the chain' so that the workers' wages would be paid by someone. The use of elaborate labyrinths of sub-contractors and sub-sub-contractors, etc. is usually designed to facilitate blame shifting and the abdication of responsibility. There are clear accountability implications here that should be of interest to students of not only management, industrial relations, and sociology but of accounting and auditing as well. The use of the labyrinths is also done to confuse the workers who most likely do not understand the complex invisible web of business relationships that exist on any one building site. Ferguson comments that 'newly arrived

immigrants [often literally] do not know who they are working for' (in personal interview, 24 March 2008). Many sub-contractors are nothing more than a mobile phone number and a PO Box and workers on sites often know their boss only by first name and are unaware of the complex food chain that leads upwards until, eventually, we reach the principal contractor. As Ferguson explained (in personal interview, 24 March 2008), the Jantom-Michael type arrangement is 'common practice' in the industry, adding that 'no-one checks up on anything. As long as the gyrocock goes up everyone is happy'. In the *Illawarra Mercury*, Ferguson is quoted as saying that '[t]hese workers will be left in the lurch over the Christmas period and unfortunately what has happened to them is not uncommon throughout the building industry' (McInerney, 2008a). As Ferguson commented to *The Australian*:

"[w]e are finding after 11 years of the Howard government some of the worst employment practices of poor countries replicated in Australia. The construction industry is a dog-eat-dog system and we are often confronted with workers who are not paid" (cited in Stapleton, 2008a).

Ferguson said to the *Auburn Review Pictorial* on 12 February 2008, after the first payment of AUD20,000 had been made in December 2007, that '[t]hese workers have been taken advantage of because of their limited English and used as cheap labour' (Roberts, 2008). In personal interview with the first-mentioned author (on 24 March 2008), Ferguson estimated that around 80-90 percent of the time newly-arrived immigrants will (illegally) not be paid superannuation entitlements. If something goes wrong it can be impossible to get redress without having access to the organization, strength, and strategic approach of the CFMEU. In Ferguson's words, in personal interview (on 24 March 2008), 'without the union [the workers had] no capacity to confront' due to lack of numbers, lack of resources, lack of organization, and the language problem'.

The workers involved in this Wollongong hotel micro-case refused to do any more work on the hotel site before Christmas 2007 due to the matter of the unpaid wages. CFMEU was able to get publication of the case story, complete with quotes from and photographs of the Chinese workers, in national broadsheet *The Australian* (including Stapleton, 2008a, 2008b); all of Sydney's Chinese newspapers; the local 26,740 circulation Auburn community newspaper *Auburn Review Pictorial* servicing the workers' local suburb in Sydney (including Anonymous, 2008d; Roberts, 2008); and the 28,000 (weekdays)/39,500 circulation (Saturdays) Wollongong-based *Illawarra Mercury* (including Christodoulou, 2008a, 2008b; McInerney, 2008a, 2008b, 2008c; Sturrock, 2008). The micro-case also 'went international' when it was featured worldwide on the Chinese version of CNN (Andrew Ferguson, personal interview with the first-mentioned author, 24 March 2008). The *Illawarra Mercury* newspaper ran several stories on the case and this on-going investigative reporting by this no-name operation was especially damaging given that the hotel management company hopes to build the value of its brand name in the Wollongong area.

In another piece of imaginative tactics, the union threatened Stella that it would assemble the unpaid workers and have them stage a peaceful protest in the swimming pool area of Stella's already open-for-business Central Coast hotel north of Sydney. The occupation would continue until the workers were fully paid. This threat was much more effective than the picketing of the building site at Wollongong since the Central Coast hotel was fully operational, in busy season, and full of holiday guests. Ferguson describes union strategy here in the very Leninist terms of 'attacking the weakest, most vulnerable link' (personal interview, 24 March 2008) that in this case was the builder (Parkview)

rather than Jantom or Michael both of whom could disappear into thin air and escape consequences.

As a result of this protest threat and the newspaper articles, a meeting was held at 3pm on 9 January 2008 with Parkview and CFMEU representatives both present (Christodoulou, 2008b). A Jantom representative was invited but it is not known whether she/he attended this meeting. The CFMEU reached negotiated settlement with Parkview whereby all of the unpaid wages were paid including superannuation; first a cheque for AUD100,000 was to be paid within 24 hours followed by another AUD116,000 within seven days after verification of worker entitlements (Roberts, 2008; Sturrock, 2008). This was in addition to the AUD20,000 already received 'just after Christmas' as reported by Roberts (2008). Despite Ferguson telling the *Illawarra Mercury* on 10 January 2008 that 'I've been a union rep long enough to know that the key issue is whether this company now reneges on the deal or not' (Sturrock, 2008), the full amount owed has now been recovered including the superannuation. In the internal correspondence between CFMEU and Jantom mentioned above, a cheque for AUD100,000 was attached in accordance with the terms of the negotiated settlement. *The Australian* article of 5 January 2008 (Stapleton, 2008a) also led to an official inquiry into the worksite being announced by the Australian Government Workplace Ombudsman (Australian Government Workplace Ombudsman, 2008; Stapleton, 2008b). Although the Howard Government's Australian Building and Construction Commission (ABCC) has been heralded as a 'tough cop on the beat', in the clichéd words of Deputy Prime Minister Julia Gillard (but one opposed strongly by trade unionists), in this micro-case the CFMEU effectively operates like a police-force in terms of securing receipt of moneys already required under law. The strong ALP links and culture at

the NSW CFMEU make the police-force comparison especially apt. Role divisions are blurred further still now that the ALP is in power federally in Australia. Regarding the CFMEU's actions in this type of case and the researchers' police-force analogy, Brisbane-based construction lawyer Anthony Gibbs (name changed) offers the following comments (in personal interview, 6 October 2009):

"A lot of common law deals struck are above the law. If everybody was getting ripped off, surely the employer services [government agencies] are likely to get involved. ... I would have thought [peaceful] protests are for extreme cases. If there is a problem with law enforcement the government should put in more resources. It is not suitable for the CFMEU to be a police-force. There is a dichotomy between being a partner and prosecuting someone".

This statement fails to acknowledge that it is frequently the CFMEU that is contacted first by a member. The union then contacts the press and the law enforcement agency or the law enforcement agency is alerted as a result of the media articles. Furthermore, the union does play 'good cop, bad cop' and hence does have multiple faces. It is a supportive partner to law-abiding and co-operative 'union companies' but attacks, fairly aggressively, those non-union companies that defraud workers and renege on undertakings or break the law. Ferguson did mention in his speech to workers at Merrylands (cited in Chapter 5) that the union aims to attack non-union companies to bring them up to the industry standard, whilst working in cordial partnership with union companies. We see no problems with this 'dichotomy' that Gibbs refers to. It is not only trade unions that show 'different faces' to different stakeholders on different occasions! Another of Gibbs' comments is interesting, albeit somewhat clichéd:

"They [the CFMEU] need to be seen in a more positive light, not just them always whinging and the press reporting problems [in response to the whinging]. They may be doing good things but it is not known".

Gibbs is correct when he states that the union may be doing good things but that these are not known. The micro-cases presented in Chapters 8 to 11 of this book reveal some of the union's positive achievements and it is important that these events receive full and proper publicity. However, Gibbs is somewhat unreasonable when he states that the union should not 'whinge' to the press (note to foreign readers: 'to whinge' is Australian slang for 'to complain') since the press articles about a company's ill-treatment of workers frequently is the needed 'catalyst', or, in the words of neo-Marxist philosopher Theodor Adorno, the 'negative dialectic', that produces a positive outcome when the company responds to it by improving its conduct and/or the press articles alert government agencies to the wrongdoings. The negative press reports need to come first or there is less likelihood of the positive press reports appearing subsequently.

According to Ferguson, this successful financial outcome was important in educating the Chinese workers as to the role and purpose of an independent trade union and it is hoped that the outcome will have the flow-on effect of raising the union's profile and increasing its membership base among Sydney's Chinese community, a community that (unlike the South Koreans) has had no experience of independent trade unionism in their home country. In Ferguson's words, in personal interview with the first-mentioned author on 24 March 2008:

"[The micro-case] helps to lift profile of unionism in Australia with an ethnic group having not much relation with unionism. [We are] trying to educate [Chinese] workers about independent unionism. For them union is connected to government".

The union now has a full-time Mandarin-speaking organiser Mr Yu. Presently many union publications and one section of CFMEU NSW (Construction and General Division)'s *Unity* magazine special multilingual editions are written in Mandarin. Cases of special interest to

Chinese workers, such as the Wollongong hotel case, are highlighted with pictures in the Mandarin section of the special multilingual editions of *Unity*. Chinese workers are featured prominently in the Mandarin section and workers of other ethnic backgrounds highlighted in the various other language sections. This micro-case and its satisfactory resolution should increase the legitimacy of CFMEU in the eyes of construction workers from the Chinese community in Sydney and the broader Australian society. The CFMEU's protest plans were peaceful and its negotiation skills and blanket media coverage led to a satisfactory negotiated settlement where, although no party admitted guilt directly or even the obligation to pay, all unpaid wages and superannuation were received by CFMEU and passed on to the workers. CFMEU has more industry muscle and more willingness to fight than the British right-wing unions studied by Bain and Taylor (2008) who were unwilling to initiate industrial action other than promotional campaigns and lobbying of consumers and parliamentarians which proved to be of limited value. However, whilst the BLF majored in sympathy strikes, the modern CFMEU majors in peaceful protests. Although successful in the two micro-cases studied thus far, it is by no means certain that such protests will work in all cases.

The CFMEU's strategy (hiring a Korean-speaker to reach out to Korean-speaking workers, etc.) is an obvious example of the 'like for like' union recruitment strategy referred to by Martinez Lucio and Perrett (2009, p. 339). This approach has positive features but can result in ethnic community organisers becoming 'isolated' and 'inculcated within established trade union practices and work[ing] within protected and disconnected spaces' (Martinez Lucio and Perrett, 2009, p. 340). It adds to the bureaucratic and hierarchical nature of the CFMEU in Sydney since Koh reports directly to Ferguson and few other CFMEU organisers

or workers may know about or understand what he [Koh] is doing. Someone like Koh could then become easily isolated and alienated within the CFMEU office. Another concern with this approach is problems caused by rapid changes in a region's demographic with older groups becoming more established and newer groups arriving. Martinez Lucio and Perrett (2009, p. 340) give the example of fourth-generation Pakistanis in Yorkshire, England who are clearly a very different demographic from newly arrived Somalis. A further concern is union outreach to immigrant communities being co-ordinated by old, white, and male union leaders who may not be fully attuned to the needs of newly arrived groups (Martinez Lucio and Perrett, 2009, p. 339). However, in the micro-cases we discuss, the CFMEU was able to gain satisfactory financial solutions for the migrant workers involved and, clearly, the ability to achieve these results says something about the overall effectiveness of the programme. In personal interview on 15 May 2009, Patrick O'Brien (name changed), an organiser with six years' experience with the CFMEU in Sydney and now with a white-collar union in the education sector, claims that one of Ferguson's strengths is his knowledge of the various ethnic communities living in Western Sydney as well as the ins and outs of ALP politics in the area.

Another positive development in the Wollongong hotel micro-case is that the second gyprock sub-contractor Salix (that took over from Jantom after the events discussed above) is a union company with an EBA that pays workers correctly. Ferguson states that 'we had to teach the boss a lesson' (personal interview, 24 March 2008) and the lesson appears to have been well learned. The Wollongong hotel micro-case confirms Ferguson's view that migrant labourers on s457 or other temporary visas are 'the most exploited group in the industry due to language, lack of knowledge [and lack of] power' (personal interview, 24

March 2008). Ferguson points out that, in the process of joining CFMEU, a migrant worker specifies her/his main language on the application form and then is sent information in that language on the beneficial rights that are available to all workers under Australian law. Ferguson adds that ‘they [migrant workers] don’t actually know [that] they are entitled to certain things in this country’ (personal interview, 24 March 2008). As Ferguson stated in the *Illawarra Mercury*,

“[t]here are large numbers of non-English speaking workers in the building industry and an increasing number of workers who have no understanding of their rights and entitlements. These Chinese workers are a classic example” (cited in McInerney, 2008c).

In this case, the Chinese workers are a reserve army hired and put to work by the forces of global capital, through the Chinese agent Michael who exercises cultural hegemonic control over the workers. The workers were subject not only to exploitation through the extraction of surplus-value in production but through a blatant attempt at ‘primitive accumulation’ of capital (i.e. theft) that may very well have been successful without CFMEU intervention.

Chapter 10

The Mr Rajan case

Mr Rajan Kandasamy (age 33, real name, used with permission) and one of the four other affected Indian workers (Mr Subramaniyan Subbaiya, age 31) participated in the one-hour focus group on 15 May 2008 with five other participants and with the first- and second-mentioned authors acting as joint facilitators. No language interpretation was necessary. Rajan's case has been highlighted on the Australian TV current affairs program *Today Tonight*.

Rajan's case involved him and three other Indian nationals hired on s457 visas by Southern Cross Construction and Rigging Pty Ltd (hereafter Southern Cross).²¹ Southern Cross is a large and well-known diversified Sydney construction company that is the second-largest in Sydney. Rajan had nine years of work experience in Singapore as a crane driver. Before that he worked in the industry in India. He passed an initial interview where Southern Cross appeared satisfied with his skills and experience and he was offered a four-year employment contract. Rajan paid 12,000 Singapore dollars (AUD10,500) to an employment agency to secure this job, money that was eventually lost. Rajan's initial 28 days employment experience was reasonably satisfactory although he was working six or seven days a week for an average of 58 hours per week. He was paid the wage rate of AUD21/hour (which is reasonably good but not overly generous) but was not paid time and a half for overtime. His promised accommodation, shared with six other workers, turned out to be a room smaller than the 8 x 5 metres training and seminar room at CFMEU Lidcombe headquarters where our focus group was held. About the Rudd-Gillard Government's move to market pay

²¹ The Southern Cross company's official website is at <http://scrconstructions.com.au/> [accessed 9 April 2010].

rates for s457 workers, Anthony Gibbs (name changed) reveals the humanitarian values that many Australians hold, regardless of political loyalties (although those on the Howard far-right would probably disagree with him), when he comments as follows:

“There are always going to be s457 visas when the market turns up. I don’t think that anyone should be underpaid; moving to market rates is fine. Instead of moving the factory to, say, the Philippines, you don’t [meaning ‘should not’] achieve the same result by bringing the labour over here on cheap rates; that’s just not on. If we have an international competitiveness problem, then that has to be solved another way or we should just not do that type of work at all here”.

Events changed dramatically in September 2006 after Southern Cross found out, two days after the event, that Rajan and his three Indian co-workers had joined CFMEU as financial members. This is the same situation that happened in Tsarist Russia in January 1905. According to Rosa Luxemburg’s (2005, p. 31) historical account, the mass strike in January 1905 in St Petersburg had, as its immediate cause, the seemingly trivial case of two men employed at the Putilov works being discharged on the grounds of their membership in the (legal) Zubatovian trade union. It appears that worker rights were respected in Howard-Costello’s Australia to around the same degree as they were respected in Tsarist Russia. As O’Brien explains (in personal interview, 15 June 2009), ‘Many [s457] workers are under threat to leave the country if [they become] identified with union activities’. The four Indian workers in this case were summoned to a special meeting at the Southern Cross central factory and were fired. They were required to vacate their accommodation within 24 hours and leave the country within 28 days or, in the case of some of the workers, within 20 days. In Koh’s apt and succinct words, addressed to the researchers at the focus group, ‘call it as a slave’. These events put the four workers in an extremely difficult position and the events of this case cast doubt upon the widely held

assumption that in Australia we have the right to freedom of association. If we can cast our minds back to Chapter 3, we might recall that Pope John Paul II (1981) listed the right to freedom of association as a sacrosanct worker right in his encyclical letter *Laborem Exercens [On Human Work]*. As the CFMEU Construction and General Division national newspaper *HardHat* (March 2008 edition) explains, s457 visa workers are often exploited since the employer is aware that the workers will be forced to leave the country if they are fired and they can be fired pretty much at the company's discretion (Anonymous, 2008a). In the worst reported case to date, *HardHat* (March 2008, p. 6) reports that two young Cook Islanders, Sam Kautai and Rima Kainuki, were severely physically beaten by representatives of their employer Freliesma Guttering Pty Ltd (Anonymous, 2008b, p. 6). The events of the Kautai and Kainuki case are retold in the CFMEU Construction & General Division booklet *A Better Life? Stories of Exploited Guest Workers in Australia*, at page 11. In the Rajan case the four Indian workers were fired immediately by Southern Cross without warnings of any kind on the alleged grounds of inexperience even though the employer at interview had been satisfied with their skills and experience. No event since then had arisen which could have reasonably thrown this judgement into question. In Rajan's words, at the focus group, 'They never gave me a crane so how did they know I don't have experience?' The CFMEU's Koh labelled the action of Southern Cross in this case as 'typical abuse'. Despite the BLF's legacy, Southern Cross still regards crane drivers such as Rajan as 'shit-labourers'. As Rajan remarked, 'so many people still suffer from this company at AUD21/hour or AUD18/hour or AUD15/hour, [which is] below the union rate'. In the Rajan case we have exploitation of a migrant worker by a large mainstream Australian organization whereas, in the Kim case, we had

exploitation of a South Korean worker by a small South Korean organization. Clearly both types of exploitation exist, each takes on its own particular form, and yet the devastating effects on the lives of the exploited workers are very similar.

The CFMEU took the extraordinary step of allowing the four fired Indian workers to live in the 8 x 5 metre training and seminar room (where the focus group meeting on 15 May also took place) at CFMEU Lidcombe headquarters for the period of a month. The union bought beds for the four men and their living costs were also paid by CFMEU during this time. Koh recounted, at the focus group, his experience of coming to CFMEU HQ on Saturdays and Sundays to unlock doors so that the workers could proceed from one part of the building to another to take showers without setting off alarms! We have here an example of extremely innovative and humanitarian union strategy in terms of the lengths to which the CFMEU was clearly willing to go to practically aid migrant workers. The union sourced out and paid bond on rental accommodation for the four workers. It is little wonder that Rajan told the researchers at the focus group that 'I am satisfied with the union help so far'. The CFMEU assisted the workers in taking the case to Sydney's Industrial Relations Court where the workers won a victory and had their jobs reinstated. Southern Cross was also required to pay the workers' wages for each of the days not worked.

Rajan states that 'we want to start new relationship with the bosses'. However, the company's arrogant attitude does not appear to have changed: these workers are now (as at the date of the focus group) rotated around different jobs at a rapid rate even though they are not familiar with the suburbs of Sydney. No travel allowances are paid to these four workers although other Southern Cross workers receive travel allowances. As at the date of the focus group, the four workers had been

allocated to a site at Mittagong near Wollongong, 82 kilometres south of Sydney. They need to leave home at 4am and travel by train to the worksite in order to arrive there by the 7am scheduled start time. Clearly, the workers are still suffering from exploitation and victimization that might in part be racially motivated and in part be motivated by their low status as 'shit-labourers'. Rajan suggests that the harsh conditions imposed upon the 'renegade four' by Southern Cross are because they are 'outspoken'; Koh adds it is because they are 'out of the closet [i.e. as union members]'. After an additional 18 months working for the company after the reinstatement they are yet to receive a salary increase. The workers' loyalty even today to Southern Cross is quite remarkable: 'We don't want to leave this company' (Rajan at the focus group). In terms of conventional understandings of legitimacy, the company Southern Cross does not appear to regard its legitimacy as having been under threat. This could be due to the reinstatement requirement being a decision of the IR Court rather than being a negotiated settlement. A negotiated settlement, in essence, involves an admission of guilt and regret whereas a court decision handed down unilaterally can be viewed by the company as being unjust and inappropriate (Feather, 1963, p. 9). Negotiated settlements are more likely to suggest that an organization will change its future behaviour with the negotiated settlement being the first step along this Sartrean existentialist journey of self-creation. Southern Cross's reluctance in this case to change its behaviour with regards the affected workers could also be due to less direct union intervention in the form of peaceful protests in this particular case. CFMEU's assistance to Rajan and his friends in terms of providing emergency accommodation might have been unknown or regarded as irrelevant from the viewpoint of Southern Cross. As a result, Southern Cross might not have perceived its legitimacy as having been under

threat by any of the events that occurred. It then simply chose to abide by the court decision without changing its underlying attitude towards the workers. The continued ill-treatment of the ‘renegade four’ (albeit in more subtle ways) after the reinstatement reveals a potential CFMEU weakness in that, in the BLF-era, onsite militancy and strike action by organisers and members might have been more successful in restraining this company’s actions and softening its harsh and arrogant attitude.

Rajan expresses his gratitude to CFMEU for its compassionate and pro-active assistance. As Rajan points out, ‘we would [have] been deported without union help and [sent] back to our country’. He expressed hope that the CFMEU would ‘keep on helping us whenever we need help. That’s enough for us. We will support the union’. Rajan hopes that new migrant workers in the industry can get proper information about their legal rights in Australia and that they will be informed of the CFMEU’s willingness and ability to assist:

“The newcomers don’t know where to go for help. Other visa workers need to know. There should be an information centre. They [employers] never care about the 457 workers; they never care what happens to them. Two of my friends when they went back [to their country of origin] for holiday – the company said ‘don’t come back’”.

Rajan, like Kim, also received a recommendation from his friend, a member of Sydney’s Indian community, to contact the union after the initial firing. Ethnic communities, whilst being unable to offer much help beyond ‘symbolic sympathy’, do seem to be aware of the CFMEU’s existence, and its strength and independence, and are quick to recommend that exploited workers contact the union. This is one payoff from, and legacy of, the BLF’s militant past. Whilst the more newly-arrived ethnic communities may not know of the BLF deregistration, or distinguish between the BWIU and the BLF, the industry unions do not seem to have a reputation among the ethnic communities for weakly

standing aside but instead are known for their power and pro-worker stances. As Koh explains, 'We Koreans and Chinese ask for help from the [ethnic] community but [they] cannot provide legal or financial [help]. They will recommend we go to CFMEU'.

By housing workers at the union premises and paying living costs and bond money, the union seems to be fulfilling a role somewhat similar to the role that a community church might play. The union is serving the role of meeting-point and source of advice and fraternal moral and practical support that we might expect churches or charity organizations to call their own. Rajan declares himself now a committed union man and notes how the union was very proactive in telephoning the workers and asking how they were being treated and what the union could do to assist. The CFMEU is attaining 'soft' humanitarian ends with, at times, harsh yet law-abiding tactics, pushed through by the determined processes of an organization with an ALP-culture. The modern-day CFMEU also, partly unconsciously, trades on the powerful legacy of the BLF as an indomitable war machine with millions of silent supporters who are hidden and ready to support union initiatives at the blow of the metaphorical whistle. These hidden masses of supporters play the same deterrence role as the mythical hordes of Millwall FC football supporters of south-east London play in the minds of visiting team fans. Of course we should remember that, ironically, the BLF was the union most aggressively opposed by ALP politicians during the 1970s, 1980s, and 1990s.

Chapter 11

Collaboration and partnership between CFMEU and Korean Tilers Association

Information regarding this final micro-case was obtained from a 75-minute focus group held at the CFMEU's Lidcombe (Sydney) headquarters on 16 May 2008. The CFMEU's Chikmann Koh was present to clarify questions and responses and to offer a 'union perspective' although at this particular group he was not required to act as interpreter. The focus group was jointly facilitated by the first- and second-mentioned authors. Members of the focus group were exclusively employed Korean tilers and included the chairman of the Korean Tiler Association in Australia (KTAA) Mr Philip E. Oh and its secretary Mr Hyun-Don (Peter) Shin. In addition to Oh and Shin, there were five other Korean tilers present although (for reasons to be explained later) one tiler left the meeting early. Oh and Shin, group leaders and the tilers with the most years of Australian working experience, dominated the focus group discussion with the apparent tacit consent of the others. Of the other tilers present Mr Hwangbo Won also started tiling in Australia in the 1980s, after some earlier experience working in the industry in South Korea. Mr Sik-Kwon Young arrived in Australia in early 2000. Of the group, only Won had experience in tiling in Korea. Koh describes Oh, Shin and Won as 'the pioneers [that] started [Korean] tiling work in Australia'.

Shin arrived in Australia as a legal migrant in July 1987 and soon gravitated towards tiling. He has worked in the tiling sector in Sydney since his arrival. He gained Permanent Residency through the Australian embassy in South Korea and the then Commonwealth Employment Services (CES) helped him to find work. Shin has been a union member

since 1989. He explained how the Korean presence in tiling has built itself up organically from literally a zero base in 1987 to be a strong force today. In Shin's words, '[f]or a small ethnic group like us Koreans, people in the community introduce themselves [and the growth begins in this way]'. Oh has a similar number of years of working experience in Sydney. As such these men can give us an informed overview as to how the tiling industry in Sydney, and the role of Korean workers within it, has changed over the past twenty years. Koh informed the researchers that there are an estimated 4,000 to 5,000 Korean tilers in Sydney including Korean-Chinese (out of an estimated total Sydney Korean population of 70,000). Of this 4-5,000 tilers, approximately 70 percent are illegal workers. Koh speaks of a 'core group' of legal Korean tilers of around 2,000 throughout Australia that are aiming to advance the interests of all Korean tilers.

The KTAA began as a friendship group for Korean tilers working in Sydney then progressed to association status six years ago. It presently serves (as it has always done) as a meeting place and advocate for the interests of Korean tilers in Sydney. Martinez Lucio and Perrett (2009, p. 328) refer to the importance of ethnic communities as a source of 'information, services and a sense of dignity' for newly arrived migrant workers in developed countries in the wake of exclusionary networks, language barriers, and occasionally blatant racism.²² The KTAA also still clearly serves a social function that the CFMEU is unable to replicate (even if it would want to). This association represents a possible future for migrant construction workers in Sydney to the extent that it is

²² In Australia such ethnic community associations have included semi-professional football clubs founded by immigrant communities such as Melbourne Knights (formerly Melbourne Croatia) and South Melbourne (formerly South Melbourne Hellas) in Melbourne and Marconi Stallions and Sydney United (formerly Sydney Croatia) in Sydney (Carniel, 2006; James et al., 2010; Skinner et al., n/d; Sydney United FC, 2008).

(ethnic) community-based and has a hard-to-define relationship with the CFMEU. No-one at the focus group seemed sure whether the objectives of the KTAA and CFMEU are now, or can be ever in the future, in total harmony (Martinez Lucio and Perrett, 2009). KTAA members seem wary of the CFMEU and would probably resist any claim that the union might make to be the representative body working to further the interests of Korean tilers in Sydney.

The KTAA and CFMEU are working together (as at 16 May 2008) to lobby the Rudd-Gillard Federal Government on behalf of a certain subset of Korean tilers in relation to an immigration issue (to be discussed shortly). It could be that the two bodies will tend to move closer in terms of objectives or it could be that they remain largely separate but willing to work together on the occasional practical issue. As Shin explains:

“Tiling industry bad conditions will continue. We need strong unity to represent tilers’ opinions and to ensure communication with other tilers. Korean tilers are a major group in the Sydney area. We come together to make one voice for the workers. We started against the union in the beginning under the Liberal Government. Now we develop a friendship and become a good partner now; we fight for the same issues”.

The use of the word ‘against’ here as in ‘against the union’ led to the CFMEU’s Koh interjecting and disputing this version of events. Shin then clarified, saying that what he meant was that, during the Howard-Costello era, the KTAA became cynical and disinterested in working in partnership with CFMEU to an extent since the Howard-Costello Government had weakened union muscle. Patrick O’Brien, in personal interview with the first-mentioned author (15 May 2009), offers some support for Shin’s version of events as he criticizes the CFMEU in Sydney for failing to strengthen delegate structures and empower the membership during the construction boom associated with the 2000 Sydney Olympic Games. Koh then put forward the ‘union perspective’

regarding the Korean tilers, seemingly addressing himself primarily to Oh and Shin and only secondarily to the researchers:

“CFMEU listened to your voice. [We encourage you to] solve the problem with the union together. At that time [the Howard-Costello era], Andrew [Ferguson] said the union should protect our labour market. Andrew agreed to support Korean people to get 457 visas. Andrew asked [Koh names two major employers] to give Korean tilers jobs if they have good skills even for those who are on one- to two-year tourist visas. Some undocumented illegals got 457 visas [as a result of this]. The union helped our Korean tilers. If Andrew had said ‘no’ [to our requests for help] we [would have had] no solution at that time”.

In his response above, Koh’s switching from ‘you’ to ‘us’ with apparent ease when referring to Korean tilers is important. It is doubtful whether all of the Korean tilers present were totally convinced by Koh’s claims to be representing ‘us’ (Korean community) as opposed to ‘them’ (the union). The very last ‘we’ of Koh’s statement above is ambiguous: does it refer to ‘we the Korean community’ or ‘we the CFMEU’ or have the interests of the two, in Koh’s mind at least, been conflated? Shin’s next response (below) is also somewhat difficult to interpret, as the extent to which he is affixing any blame to the CFMEU is uncertain. He is presumably using past events to challenge the CFMEU to demonstrate to the Korean tilers *today* that union fees in the future will be used to achieve tangible results (Heery and Simms, 2008). In other words, he is asking the CFMEU to prove its legitimacy to Korean tilers:

“Working conditions were very good at that time [Hawke-Keating Labor Government era, 1983-1996]. Under Liberal Government, working conditions got bad. In our society, the union never campaigned for the society. Koreans are more experienced than other [Asian] groups in knowledge of unions”.

Koh’s final reply to this last comment of Shin’s was as follows: ‘Since 1980s CFMEU has a history of publishing Korean, Chinese brochures. The other unions did nothing [comparable]. This is for the benefit of migrants’.

In personal conversation with the researchers, away from the CFMEU premises, Koh expressed his in-principle support for the concept of ethnic community-based trade unions operating under the umbrella of the Australian Council of Trade Unions (ACTU). A Korean trade union would serve exclusively Korean speakers but the occupation category of the worker would be irrelevant. Even now some Korean speaking workers not working within occupational categories served by CFMEU have joined the union and Koh has been willing to assist some Korean workers from outside construction (such as Mr Kim whose micro-case details appear in Chapter 8) on a case-by-case basis. Koh does this 'outside of office hours' (for non-union members), as he told the researchers, and he added that Ferguson is not completely keen on this activity.

The relationship between KTAA leaders and Koh at present is hard to define. Some of the Korean tilers present seemed to be looking, judging by their body language and facial expressions, primarily towards the KTAA leaders rather than the CFMEU to represent their interests. A verbal altercation occurred in the focus group where a young Korean worker, fluent in English, asked the researchers aggressively what the purpose of the research was (although this had already been explained) and then accused the researchers (or Koh, this was not clear) of being 'his advocate'. The young worker felt that the research project was a pretence being used by Koh and CFMEU to sell the benefits of CFMEU membership to the Korean tilers. The presence of copies of the union newspaper in the middle of the table as people entered the room, in hindsight, probably added to the perception that Koh and the researchers were a secret partnership aimed at proselytizing. Were we able to do the focus group a second time we would have removed these union newspapers from the room in advance. As organisers such as Koh

are paid in part based on the number of new union members that they sign up, the young worker's adverse reaction was to a degree understandable. Koh later explained to the researchers (after the focus group had concluded) that this young worker was a university graduate who had not been able to get a professional job and had drifted into tiling within the last year; he remained bitter about his personal situation. After each party expressed their viewpoint fairly assertively at the meeting (after this altercation the young tiler left the room), Oh and Shin, at first imperceptibly, took more of a leading role in the focus group discussions and emphasized the KTAA's desire to continue to work in partnership with the CFMEU. Just as accounting researchers Kerry Jacobs and Stephen Walker (2004) argue that there is a competition for influence in churches between the clergy and accountants as to how church members spend their money, there seems to be a struggle between the KTAA and CFMEU to win the hearts and minds of Korean tilers. The Korean component of the CFMEU may well be 'social movement unionism' (Simms, 2007), but the KTAA is 'social movement' (but non-political) to an even greater degree. We agree with Martinez Lucio and Perrett (2009, p. 329) where they state that trade union strategies in relation to ethnic minority workers are 'seen [by industrial relations researchers] in a vacuum and of a hierarchically led realignment, when in fact responding to these issues raises major questions related to trade union identity, purpose and roles'. Our micro-cases, and accompanying discussion, have hinted at these deeper sociological tensions and dilemmas in relation to a trade union's identity and purpose in new multicultural settings. After all, it is difficult to disagree with the assertion made by Martinez Lucio and Perrett (2009, pp. 326, 329) that traditional union solidarity (solidarity now being a

Catholic value espoused by John Paul II) has had, in the past, an implicit race and gender aspect.

We now focus on one particular case where the KTAA and CFMEU worked together to lobby the Rudd-Gillard Australian Federal Government on behalf of a particular sub-set of Korean tilers. This case suggests a blueprint for the future, i.e. further co-operation between ethnic community representative groups and mainstream trade unions in regards single issues of common concern. As far as we are aware, the KTAA is the first ethnic community representative organization working in the construction industry in Australia and it is likely that more such organizations will be formed. Thus a study of the KTAA in a very real sense provides us with a window into the future of the industry.

Koh begins discussion of this case with reference to a recent meeting between Housing Industry Association (HIA) representatives and Prime Minister Kevin Rudd where it was concluded that Australia needed 15,000 new construction workers from abroad with 10,000 new houses needed in the medium- and long-term to help solve the 'rent crisis'. The HIA is not in favour of new \$457 visas that impose significant costs upon employers in the realm of AUD50,000/worker including benefits but prefers new work permit visas. Koh adds that, 'in the Korean community we have many skilled workers who cannot fix their visa problems – we have no idea how many'. Both Koh and the KTAA leadership see these experienced Korean tilers currently experiencing visa problems as a key part of any practical solution to the HIA's plans.

In this case, the CFMEU and KTAA are presently (as at 16 May 2008) lobbying the Rudd-Gillard Government and, in particular, the Federal Parliamentary Secretary for Multicultural Affairs and Settlement Services, Mr Laurie Ferguson MP (brother of CFMEU's Andrew), to change the immigration laws that presently stipulate that, when a visa

expires, a Korean must return to Korea and not re-apply to enter Australia for a period of three years. The KTAA and CFMEU are lobbying that this period be reduced to three months. In particular they are using case studies of a sub-set of Korean tilers that started working here on spouse visas (where they were permitted to work to support their dependent spouses while those spouses were studying in Australia). As Koh explains, '[t]hey are principal breadwinners who have to support their families who are here with proper visas'. The KTAA and CFMEU are lobbying the Rudd-Gillard Government to approve new work permit (not s457) visas for this sub-set of workers, which is a recommendation, as Koh points out, consistent with the HIA's own suggestions. The case studies will be presented to Laurie Ferguson at the next meeting to discuss the issue. The Korean workers that will benefit from any negotiated outcome are those with more than five years' experience in the industry in Australia. Workers are presently (as at 16 May 2008) providing Koh and Oh with case study vignettes of their personal situations and work/visa histories. These workers, Shin stressed, have years of experience in tiling under Australian conditions and they literally have assisted in the building of this country. For example, many of them worked on projects associated with the 2000 Sydney Olympic Games. Shin argues convincingly and with passion that it is a 'win-win' outcome for these workers to be granted working visas without having to spend three years back in Korea. It is a 'win' outcome for the workers and their families but also for Australia where these Korean tilers have years of local working experience under local conditions and will pay income tax to the government. In addition, many have paid international student fees for family members over many years and so, arguably, Australia owes these people something from an ethical perspective. In Koh's words, the granting of new work permit visas to the former holders

of spouse visas ‘will solve the visa problem and Australia’s skills shortage problem. KTAA and CFMEU together have power [to achieve the desired outcome]; that’s what I believe’. For his part, however, Laurie Ferguson MP, in telephone interview with the first-mentioned author (20 November 2008), claimed to have no recollection of this particular subset of workers. He did put forward a cautious ALP view that he felt that the CFMEU was pursuing certain cases as acts of ‘pragmatic’ solidarity with the foreign workers, but without any underlying ‘principles’ or appreciation for the government’s view that it had to police the immigration laws strictly and fairly. He commented that it is not reasonable for every immigrant worker to expect to be awarded residency simply because she or he had experienced one case of exploitation. If the researchers had expected ALP enthusiasm for the CFMEU’s lobbying actions, none was forthcoming.

The present leadership of the KTAA appears to be moving their body in the direction of closer ties with the CFMEU. It is likely that the recent successful outcome in the Kim case (discussed in Chapter 8) and successful outcomes in the future on other cases, such as the visa case discussed here, will see support for the CFMEU growing within the rank and file of the KTAA. The battle for the hearts and minds of Sydney’s Korean tilers remains an ongoing one.

Chapter 12

Conclusions

Using a series of case studies, based on data obtained from fieldwork at the Sydney (Australia) branch of the Construction Forestry Mining and Energy Union (CFMEU), we document union strategy at the branch level in the year immediately after the federal election defeat of John Howard's conservative Government, i.e. November 2007 to November 2008. A key aspect of union strategy at the branch level in Sydney was building site visits by organisers designed to rebuild influence on sites and reconnect with workers. Evidence suggests that the removal of a key external constraint, Howard-Costello Government neo-liberal hegemony, altered the invisible balance of power (Martin's (1992) 'ghost at the bargaining table') significantly even on election night 2007. The CFMEU's hiring of foreign language speaking organisers and production of foreign language publications is a praiseworthy attempt to reach out to ethnic minority workers and bring them under the 'mainstream' union umbrella. In two focus groups with construction workers, results presented in Chapter 6, we find one external constraint identified by Heery and Simms (2008) to remain challenging for the CFMEU: reaching out to and meeting effectively the needs of younger workers, especially those from families hostile to unionism. However, consistent with Peetz (2006), younger workers seem to hold a mix of individualistic and collectivist philosophies. The 'asbestos scare' micro-case, presented in Chapter 7, shows the CFMEU organiser Mr Mal Tulloch to be adaptable and flexible in the heat of industrial disputation. Lastly, the fact that building workers brought the asbestos issue to CFMEU's attention in our final micro-case shows union willingness to pursue issues not initiated by the union (Simms, 2007). Consistent with Simms'

(2007) theory, the CFMEU probably pursued the asbestos issue with the builder because it was winnable, salient, and could gain collective support. The CFMEU has the ability and potential to rebuild its influence on building sites in Sydney and win further favourable outcomes for exploited and vulnerable workers within its sphere of influence. As it does so it will assist in bringing to fruition the Roman Catholic social teaching that presents strong trade unions as a valid form of collective voice for workers and a way for collective and individual labour to retain, in practice, the dignity that God has already clothed them with. Very important here, as John Paul II (n/d) realized, is the 'preferential option for the poor' in the face of 'sinful structures'.

The three micro-cases presented in Chapters 8 to 10 reveal the Sydney CFMEU's strategies to be highly innovative and effective in relation to securing favourable outcomes in grievance cases involving marginalized and exploited migrant workers. The union campaigns were strategically sound and well-resourced. Although the strategies differed in the Kim (Chapter 8) and Wollongong hotel (Chapter 9) micro-cases, the strategies were similar in their humanitarian components and in being peaceful and legal. Clearly the Rexma owner, in the Kim micro-case, proved to be (with the benefit of hindsight) relatively 'easy pickings' for an organization with the resources, strength, size, and influence of the CFMEU. Andrew Ferguson being the State Secretary of the CFMEU (Construction & General Division) and brothers Martin and Laurie being Federal MPs means that, for those knowledgeable individuals aware of these connections, the CFMEU's authority and legitimacy is viewed as very nearly equivalent to that of the ALP. With the ALP now in power federally this factor will have only increased since the events of the Kim micro-case. One important similarity in the Kim and Wollongong hotel micro-cases is the satisfactory outcomes involved that include adequate

financial compensation. Both micro-cases, and similar cases, are likely to feature heavily in future CFMEU promotional material.

As with the Kim micro-case, the Rajan micro-case, presented in Chapter 10, reveals the CFMEU strategy in relation to grievance cases to be highly innovative and effective. The strategy took on a more obvious humanitarian dimension as the union took on the responsibility itself of housing the workers in the union headquarters after they had lost their own accommodation. The union campaign was strategically sound and well-resourced. Because the CFMEU here (as compared to the Kim micro-case) was dealing with a large size mainstream Australian organization, and with legal rather than illegal workers, there was less of a need for leafleting of ethnic communities or informing the foreign-language press so as to pressure and humiliate the company owner to offer a quick negotiated settlement. Instead, the union helped the men in terms of accommodation and financially and informed the Sydney IR Courts where the workers had basic rights. Although the strategies differed in the two micro-cases presented in Chapters 8 (Kim) and 10 (Rajan), the strategies were similar in their humanitarian components and in being peaceful and legal. The 'pressure and persuasion' aspects of strategy were more pronounced in the Kim micro-case since his illegal worker status gave the union fewer options to work with and the company owner being *both* a member of an ethnic community and a sole proprietor suggested his legitimacy within his own community might be more easily attacked. In the Kim micro-case, the Rexma owner and Rexma could be treated as one and the same by the union since the community would perceive that to be the case. By contrast, in the Rajan micro-case, there was no effort made by the union to pressure the building company owner and cast doubt upon his legitimacy within his own community. Possibly this company was felt to be too difficult a

target especially with the Howard-Costello s457 laws not having been obviously broken by the company Southern Cross. It was the laws themselves, rather than their breach, that provided for the harsh treatment of foreign workers in the Rajan case.²³ As Brisbane-based construction lawyer Anthony Gibbs states, it is appropriate that the Rudd-Gillard Labor Government has amended these laws to require market rates of salary to be paid to s457 visa workers (see footnote in a previous chapter). However, a s457 visa holder still faces difficulties if she/he is fired, as she/he then needs to find alternative employment within a short space of time. Furthermore, the Kim and Rajan micro-cases differed in that the outcomes gained were from negotiated settlement (in Kim's case) and by court imposition of a verdict (in Rajan's case). The court imposition may mean that Southern Cross was not pressured to 'own' the outcome and its later negative attitude towards the workers may reflect its resentment towards a court decision which was forced upon it. As Feather (1963, p. 9) writes, '[t]here is always more satisfaction with a settlement which two parties themselves agree is fair than there would be on the part of either if the same settlement was made for them by the Government'.

One other important similarity in the two micro-cases presented in Chapters 8 and 10 is the satisfactory outcomes involved that include financial compensation (in the Kim micro-case) and the reinstatement of the sacked workers (in the Rajan micro-case). The continued ill-treatment of the 'renegade four' in the Rajan micro-case suggests a weak link in CFMEU strategy as Southern Cross, although abiding by the court decision, does not appear to have changed its underlying attitude towards the workers. It appears to view the CFMEU as simply 'another

²³ The court victory was because NSW state laws were in contradiction to the federal s457 laws. Section 457 visa rules effectively allowed for the worker to be fired at the company's discretion.

instrument of government', consistent with the pro-Accord position of the BWIU leadership in the 1980s. A strong BLF presence, with its emphasis on sympathy strikes and the dignity and status of builders' labourers, is clearly missed here. The facts also suggest that shop stewards and workplace activists do not have the restraining presence at Southern Cross (i.e. ability to create a workplace culture where bosses feel restrained and treat workers with dignity) that could have led to a more favourable permanent outcome with respect to the company's attitude towards the workers.

It is suggested that the CFMEU develop or find a suitable theory of humanitarianism that it can use to guide strategy and to sell to workers and to the broader community. Although its actions in individual cases are mostly effective and successful, the CFMEU's left-humanitarianism has not been fully articulated by the union itself as a union guiding theory (as opposed to being simply an extension of Ferguson's own personality and core beliefs). At the moment, the union operates in something of a theoretical void with class struggle having been abandoned by all but some old-time Marxist activists nearing retirement age. No theory has as yet emerged to formally take class struggle's place within union discourses. In practice, the union now is drawing on the humanitarian legacy of the NSW BLF as well as the culture and worldview of both the ALP and the pre-capitalist pre-Marxist craft unions. It might be worth better articulating these influences rather than having people being guided by conscience, intuition, and pragmatism alone. In 'selling' the union to potential future organisers and members, these potential organisers and members need to know something of the nature of the product they are buying as well as its theoretical and philosophical underpinnings. Whilst much of the humanitarianism may stem from Andrew Ferguson's personality and core beliefs (and nobody

we have talked to has faulted this aspect of Ferguson's beliefs and priorities), the humanitarian ethos needs to be formalized and articulated so that the organization has a smoother path going forward. This will be especially needed at that time when Ferguson eventually leaves the union.

The authors of this book think that there is still some room, theoretically, for class struggle in Sydney CFMEU guiding principles if we have not yet reached a classless society. Feather (1963, p. 107) writes that '[a] trade union is a pragmatic body, doing what it can, when it can and how it can, within the boundaries of the society in which it has existence'. We accept the 'pragmatic body' part of Mr Feather's statement, to a certain extent. However, as Marxists, we assert that a union sometimes may need to work towards social change, thus going beyond the immediate boundaries of society in order to create better boundaries. Presently, the Sydney CFMEU leaders appear to view bosses and workers as being akin to football players and teams, sometimes united (as in representative matches) and sometimes opposed. In his classic work *The Essence of Trade Unionism*, Victor Feather (1963, p. 86), a non-Marxist, happily utilizes the football game imagery when discussing what the British traditionally term the 'two sides of industry'. However, the Marxist insight that capital and labour stand in fundamentally different positions in relation to capital and the means of production (Althusser, 2008b) seems to be a vaguely understood and repressed concept in union publications and discourses.²⁴

The CFMEU's South Korean ceramic tilers, under the leadership of the CFMEU's Koh and Ferguson, can be categorized as 'social movement

²⁴ Althusser (2008b, pp. 80-81) demonstrates that, from the Marxist perspective, the football game analogy is theoretically in error when applied to capital and labour, because, unlike in a football game, there is nothing 'before the class struggle' (p. 81, emphasis original).

unionism' (Johnson, 1994; Schenk, 2002; Simms, 2007; Waterman, 1998), as opposed to traditional institutionalized unionism, given that Koh willingly assists Korean workers from outside construction and that he has already become a visible and reliable link between South Korean ceramic tilers in Sydney, the Korean Tiler Association of Australia, and the CFMEU. Koh states that Korean workers, including women, from areas outside construction (e.g. office cleaners) sometimes call him and ask for assistance. He then looks for ways to assist these workers. Koh says that he does this 'outside office hours' for non-members and these activities are supposedly less than enthusiastically received by Ferguson, the person Koh reports to formally at CFMEU. Clearly, Ferguson is concerned here with stepping into another union's jurisdiction (the 'Missos', i.e. the Australian, Liquor, Hospitality and Miscellaneous Workers' Union, in the case of office cleaners). Koh also mentioned to the researchers, outside formal interview, that he is considering one day setting up a Korean trade union across all trades under the direct authority of only the Australian Council of Trade Unions (ACTU), i.e. it would be independent formally of the CFMEU.

The CFMEU, in future, is encouraged to continue to build up delegate structures in workplaces so that over time a further shift can occur away from the 'servicing model' towards the 'organising model' of union strategy, and this includes the union's relationships with its ethnic community membership. Brezhnev (1975, p. 239, emphasis added) writes that '[t]he Communist Party favours a more active participation of industrial and office workers *through trade unions* in the management of industrial enterprises'. This is consistent with Mark Hayward's statement that the CFMEU needs to retain 'features of the past' especially the bottom-up approach and rank and file emphasis of the Munday-era NSW BLF. There are indications that this is already

happening to some extent. We are reminded at this juncture of Karl Marx's statement that the emancipation of the working-class can only be an act of the working-class itself.

Appendix – Essay on the relationship between Catholicism and Marxism (previously unpublished)

The following is a previously unpublished essay of personal reflections on the relationship between Catholicism and Marxism. The essay includes critique of the encyclicals written by Cardinal Joseph Ratzinger (the present Pope Benedict XVI) and Pope John Paul II in the 1980s namely *Instructions on Certain Aspects of the 'Theology of Liberation'* and *Sollicitudo rei socialis [On Social Concern]*. It is worth critiquing these documents as, in Stourton's (2006, p. 193) words, '[m]ost modern popes are remembered by their encyclicals'.

The then Cardinal Joseph Ratzinger's writings on Liberation Theology, as mentioned in Chapter 3, are fairly superficial and do not represent a genuine attempt to sincerely engage with the theoretical perspective being discussed. His comment on Marxism as an 'atheistic ideology that depresses workers' rights' is incorrect. If there is atheism in Marx we believe that this was more Marx's personal and consciously held view than an integral and necessary part of Marxism's theoretical structure. It was Marx (1994b, p. 28) [1844] himself who wrote of religion as 'the spirit of a world without spirit' (Michel Foucault's preferred translation) in 'An Introduction to "Toward a Critique of Hegel's Philosophy of Right"' (as cited by Michel Foucault in his late-1970s writings on the Iranian Revolution). Those who claim that Marx should not regard the economy as primary nor should atheism be the main part of his philosophy cannot have it both ways. If the economy is the primary, meaning most important, aspect of his theory (Ollman, 1976), then religion must be secondary, i.e. in conventional Marxist terms 'relegated to the superstructure' as it tends to be also in the world of modern neo-classical economics. If religion is 'relegated to the

superstructure', can we dare to think that Marx might allow his supporters and followers some measure of religious freedom? In Engels' (1987) [1845] *The Condition of the Working Class in England*, the young Engels' sincere compassion for the oppressed Irish poor of newly industrialized Manchester is the primary impression that the reader takes away from the text. We are confronted in this text with a very ethical and spiritual view of the world. Similarly, in the 1844 *Manuscripts*, the young Marx (1975) [1844] presented a theory of 'alienation' where he lambasted capitalism for putting in place working and legal conditions that prevented the worker from realizing her/his complete potential as not only a worker but as a human being. Marx (1976a, 1981) continued this humanitarian perspective in the chapters of his later work *Capital*, especially Chapters 10 and 15 of Volume 1 and Chapter 5 of Volume 3, where he was extremely hostile towards capitalist employers who abused and mistreated workers. His descriptions of the exploitation of labour, especially that of women and children, under capitalism, and the pointless and painful early deaths that resulted, are extremely moving and reveal Marx's humanitarian ethics. As Louis Althusser (2005, p. 82) [1965] writes, it was Marx's 'extraordinary sensitivity to the concrete which gave such force of conviction and revelation to each of his encounters with reality'. Bertie Ollman (1976, chap. 4, pp. 41-52) is correct to say that Marx's ethics work continuously and are expressed through his writing and his terminology rather than being a separate, detachable, and easily identifiable part of his overall theory. We would agree with a position that Althusser (2005, p. 52, emphasis original) rejects: '*Capital* is an *ethical* theory, the silent philosophy of which is openly spoken in Marx's Early Works'. Marx might, officially, relegate ethics to the superstructure, but what he was referring to was bourgeois ethics rather than what Engels (1976, p. 117)

in *Anti-Duhring* termed ‘the proletarian morality of the future’. Bourgeois ethics is a pure intellectual category in that it does not have as its goal the transformation of society. It cannot penetrate the economic world since its inventors benefit from the economic status quo and do not want to see the underlying ‘relations of production’ disturbed.

John Paul II (1991, Section 27, p.41) states that, under communism, ‘basic virtues of economic life, such as truthfulness, trustworthiness and hard work were denigrated’. This statement is wrong in regards Soviet and Chinese communism where most commentators claim that the state pushed people to work too hard in order to meet unrealistically high production targets as the rates of industrialization were sped up to unreasonable and inhumane levels. One of Leon Trotsky’s (2004, pp. 25-34) [1937] main criticisms of Stalin’s leadership, we should recall, was the *speed* and the forced nature of the collectivization of agriculture (Mosley, 1972, pp. 94, 107). Some people may have not worked as hard or as smart as they should have done under communism because the incentives of capitalism are absent. However, this cannot be blamed upon the state or the system but upon human greed (a point made by Michael Blewett, a former Westpac bank employee and friend of the first-mentioned author, in personal conversation with the first-mentioned author, 23 July 2009). As Mosley (1972, p. 105) writes, ‘it had been believed [by Marxists] that the working class, when oppression had been removed, would by some sort of grace become altruistic and not suffer from the sins of greed and self-interest that had bedevilled its oppressors’. The statement of John Paul II cited earlier also fails to distinguish Polish/Soviet Communism from Marxism. Anyone who has read Marx would dispute the assertion that he denigrated either hard work or truthfulness.

We do not agree with the theory of the ‘epistemological break’ proposed by the French communist philosopher Louis Althusser (2005, pp. 13, 33) where he contrasted Marx’s earlier ‘ideological’ works with his later works that were, allegedly, purely ‘scientific’ (Althusser, 2005, p. 34). He argued that ‘The German Ideology’ of 1845-1846 marked the first work ‘after the break’ (Althusser, 2005, p. 33). Although Marx’s emphases and use of terms changed over time, alienation as a theory never disappeared from his work (Ollman, 1976). However, in *Capital* and other later works, he simply used this *term* less frequently. The term is not used as often, but the idea remains (Ollman, 1976). In *Socialism: Utopian and Scientific*, the mature Engels (2004, chap. 3, pp. 57-59) [1880] discusses alienation and the Marxist theory of value in the same few pages, although he does not use the specific term ‘alienation’. Not much should be read into the dropping of the term ‘alienation’ by the mature Marx or by the mature Engels. Marx never became a humourless full-time communist bureaucrat and he never renounced his earlier humanitarian and philosophical tendencies. His greatest theoretical achievement (Engels, 2004, chap. 2, pp. 52-53), the theory of ‘surplus-value as unpaid labour time’, presented in detail in *Capital* Volume 1, contains the theory of alienation within it as an integral aspect. If the employer appropriates labour time without payment, then we have the workers’ literal alienation from the products produced and from the act of producing (Marx, 1975, p. 327). The proceeds from the sale of the products become realized surplus-value which, in its turn, becomes accumulated labour or, in other words, capital. The worker has no control over these areas of the capitalist’s operations. The other two forms of alienation in the 1844 *Manuscripts* theory (Marx, 1975, pp. 329-330), alienation from one’s own ‘species-being’ and from other people, follow on from the first two forms of alienation. The last two

forms are clearly a consequence of the extraction and appropriation of surplus-value by the capitalist from the workers. It can even be said that the theories of alienation and surplus-value are the same theory presented in different terminology (philosophical and economic, respectively) and from a different perspective (individual worker versus whole-of-factory). The latter theory specifically includes the former.

Cardinal Ratzinger is incorrect to say that the class struggle is all there is to Marxism and that, for Marx, 'class struggle is everything'. We have four arguments against this view and we shall go through these one by one. Firstly, the class struggle was not 'everything' for Marx. Two raindrops racing each other down a window or two birds flying across the sky, for example, cannot be explained by class struggle and any Marxist that did so would be completely foolish. Clearly, not all social struggles can be explained meaningfully on the basis that class struggle is the *principal* contradiction. Social struggles in this category might well include: domestic violence within the working-class family; sexual killers and police investigations; and bullying between school-children of the same age bracket, gender, and social class. However, workplace struggles generally involve oppression by the capitalist employer, either directly or via the chain of command, of individual workers and/or of the collective worker. This book has presented several micro-cases that reveal such employer exploitation and oppression. In these cases the struggles have a class element because of the way that Marx defines 'classes'. The members of the bourgeoisie own the means of production and capital whereas the members of the proletariat do not. Nearly all the implications of Marxism flow from this statement of reality. The members of this latter group are forced to sell their labour-power daily in the market-place in order to survive. As such, the members of these two classes have divergent interests with the maximization of surplus-value

being much more appealing to the members of the bourgeoisie than to the members of the proletariat. As Trotsky (cited in Mosley, 1972, p. 74) writes, class struggle can be defined simply as ‘the struggle for surplus-product’, i.e. surplus-value. This can include the struggle for non-monetary benefits payable by the employer out of the surplus-value, such as extra lunchrooms and toilets; improved working conditions; and better onsite safety. Clearly, these divergent interests between the classes will, on occasion, break out in obvious and manifest forms of ‘struggle’ which, for the sake of clarity, we can call ‘class struggle’.

The Marxist concept of ‘class struggle’ should not become a reified brand-name, with the two words seen as permanently joined together as part of the same signifier. Class struggle is simply a *struggle* between *classes*, sometimes visible struggle and sometimes veiled or even latent struggle, caused by the two classes attempting to further their own interests and utilizing their own wills and resources towards achieving these ends. This is a very practical everyday thing. There is nothing ideological about this. This was Marx’s point. As Althusser (2005, pp. 74-86) writes, Marx and Engels undertook huge efforts to free themselves from Hegelianism and other German idealist ideologies so as to confront directly the harsh realities of the socially stratified real-world. Marx met the realities of politics in France in the early 1840s whilst Engels discovered the reality of working-class life under capitalism in Manchester, England around the same time. German idealist philosophy held no more appeal for either author after these life-transforming personal experiences. As Althusser (2005, p. 78) writes, there were economists in England, at the time of the young Marx, because there was a real economy there, and there was political theory in France because there was real politics there. Germany remained backward and its philosophers had retreated completely into idealist philosophy.

Ratzinger does not acknowledge, or apparently grasp, the basic realities expressed here since he refuses to view Marxism as anything but an 'ideology' because it did not originate from within the Church and is expressed in secular language.

Secondly, the *end goal* of class struggle, for Marx, was always the establishment of a fairer, kinder, more just and more equitable society where every person, rather than just the rich, are able to fully realize their potential on a daily basis (Mosley, 1972, p. 14). We should never lose sight of this. As Mao Zedong made clear, class struggle would continue under socialism (the age of the 'dictatorship of the proletariat') but not under communism. The end goal for Marx is the same end goal, pretty much, as the one believed in by Roman Catholics and called 'the Kingdom of God'. John Paul II and the four Nicaraguan priests, referred to in Chapter 3, who also served as ministers in the Sandinista Government, did not disagree over end goals. They disagreed only over means and 'ideologies'. The end goal, for Marx, is also the abolition of all exploiting classes which, as claimed by Brezhnev (1975, p. 236), had been 'long done away with' in the Soviet Union by 1972. Whether Brezhnev is correct is the matter of some debate. What the Soviet Union and China did, during the communist eras in those countries, was to centralize the means of production and take it out of the hands of the bourgeoisie, including the rural bourgeoisie (Feather, 1963, pp. 110-111). When Stalin introduced the policy of 'exterminating the kulaks as a class', philosopher Slavoj Žižek (2008) is correct to point out that this meant destroying the kulaks (rich peasants) *as a class* and not as individuals. They were no longer to be permitted to function as an exploiting class in relation to the middling and the poorer peasants and in relation to the means of production. This need not have involved the physical liquidation of

individuals. It could have been achieved more simply by forcing the kulaks into the same economic position as the other classes of peasant.

The Marxist doctrine of class struggle purely asserts that, under capitalism, the members of the bourgeoisie (those who own capital and the means of production) have divergent interests to the members of the proletariat. Because of these divergent interests, capitalist bourgeois business owners sometimes exploit, oppress, and marginalize individual workers and/or the collective worker. Class struggle occurs in the factory as the bosses place their demands and requirements upon the workers. Most workplaces resemble dictatorships more closely than they resemble democracies.

Thirdly, the Roman Catholic literature wrongly assumes that only members of the proletariat engage in, or are tempted to engage in, acts of class struggle. In fact it was the bourgeoisie that began class struggle by imposing shocking working conditions upon the proletariat in the early years of capitalism. Before that, as alluded to in Chapter 9 in our discussion of the 'Wollongong hotel' micro-case, there was a long process of 'primitive accumulation' (Engels, 2004, chap. 3, pp. 58-59; Marx, 1976a, pp. 873-940) whereby the peasants were progressively forced off the land and land was congregated in fewer and fewer hands. This primitive accumulation was needed to prepare the ground for a fully-fledged capitalist economic system characterized by generalized commodity production and the generalized exploitation of wage-labour.

Fourthly, the Roman Catholic literature fails to appreciate that, whilst class struggle is undoubtedly an important concept in Marxism, classes are *aggregate social groupings*. Marxism does not at all require that a member of the proletariat exhibit rudeness, hostility or unfriendliness towards a member of another social class in social, community, business or religious contexts. This is not simple hypocrisy

or a lack of courage on the part of the Marxist. Marxism is not about individual struggle *per se* but about struggle between aggregate social groupings with diverse interests. Marxists also look forward to the world which is to come (The Epistle of St Paul the Apostle to the Hebrews 13:14) and speed its coming (II Peter 3:12). It would not be a good advertisement for socialism if Marxists were generally regarded as a rude and hostile bunch of people living lifestyles of hostility and hatred. We can recall the polite and constructive manner of Soviet Union diplomats overseas from Gromyko to Malenkov to Gorbachev. Edward Crankshaw (1959, p. 46) recalls Georgy Malenkov's successful trip to London, not long after Stalin's death, where he apparently 'exuded confidence and charm' and was 'much more human, flexible, and swift-witted than his photographs suggested'. Simon Montefiore (2005) reports in *Stalin: Court of the Red Tsar* that, in his later years, Malenkov converted to Christianity, as did his daughter, who has since spent part of her personal wealth building churches throughout the former Soviet Union. An acceptance of the notion of class struggle does not mean, as Ratzinger assumes it does, that workers and bosses could not reverentially and respectfully share together in the Eucharist sacrament on a Sunday. Belief in class struggle does not mean, to quote Ratzinger and Bovone (n/d, Part X, Section 16, p. 31), that 'the unity of the Church is radically denied'. When a person takes Eucharist, she/he is not acting in her/his class role at that particular precise moment. Most people are not thinking about class struggle every minute of the day, in non-revolutionary settings, nor does class struggle define any one individual's identity in every significant respect. Although the class struggle does go on continuously (just as there is a McDonald's Restaurant and a BP service-station open at least somewhere in the world whilst we are

sleeping), a person *can choose* to respectfully honour the Eucharist in church for however number of minutes that might take.

As stated previously, we believe that Marx's greatest theoretical achievement (Engels, 2004, chap. 2, pp. 52-53) is the theory of surplus-value which explains how value is created in the factory and how this value is appropriated, without adequate compensation, by the professional managements or by the owners of capitalist business enterprises. Nowhere does the Roman Catholic literature refer to or acknowledge this important and key theory. Without this theory the remnants of the skeleton of Marxism would begin to look like ... 'ideology'. The end goal of Marxism is to create a free, just, kind, and harmonious society where the worker regains her/his control over the products of production and the act of producing. Surplus-value is no longer appropriated (or at least only to the bare minimum required for reproduction and expansion) and alienation is removed once we no longer have the capitalist mode of production. This is only the logical conclusion of the application of Marx's economic concepts to economic, social, and political problems. Class struggle must be seen as a means to an end. There is no reason why peaceful protests and even prayer could not be used by a Roman Catholic-Marxist as tools or instruments of class struggle. However, it would still be class struggle as most workplace exploitation and oppression is inflicted by the powerful upon the powerless or by the company owner or senior managers upon the workers. This is class struggle, by definition, even if we choose not to use the term. A fired ex-employee who shoots her/his boss in a fit of rage is engaging in an act of class struggle although that does not mean that this action is smart or wise or commendable. To deny that there is something intrinsically different, in essence, between the positions of the bourgeoisie and the proletariat is disingenuous, wrong-headed, counter-

productive, false, and potentially harmful. Such a denial always empowers the already powerful by assuming that both parties to a confrontation start out as equals with equal rights and no important shared history of conflict. This is why the position of the right-wing Christian (John Paul II does *not* fit into this category) seems to us untenable: it removes people out of society and out of history. The Catholic Social Teaching of Ratzinger and John Paul II finds itself in a bind here, of its own making, since, on the one hand, it denies the validity of class struggle and, on the other hand, it affirms it by telling people not to engage in it.

John Paul II is not so completely naïve or fraudulent that he denies the existence of classes in society. However, by refusing to acknowledge the validity of class struggle (or even its existence) he quietly affirms the existing order of the world whilst, simultaneously, condemning the injustices that he observes all around him many of which are the products or by-products of capitalism. He refuses to *directly* link poverty with capitalism; with the stratified nature of society; and with the stratified nature of workplace relations. In the end, and it is painful to say this, writing as Christian believers, Roman Catholic Social Teaching, if this is defined as *excluding Liberation Theology*, consists of not much more than nice words and well wishes. It limits all of our *acceptable* actions in this world to marketplace transactions and private acts of charity and compassion undertaken by individuals, religious groups or NGOs. Anything else is ‘violent ideological Marxist revolutionary action’ that can only be seen as harmful and leading directly to totalitarianism. There seems to be something missing in this worldview. John Paul II denies the ‘political’ in his writings (as, of course, Cardinal Ratzinger does also but in a more clumsy and less nuanced way) while, simultaneously, showing that he is acutely aware of it when he *sides with*

the Polish Solidarity trade union against the Communist Government of Poland.²⁵ Is it a case of ‘do as I do not what I say’? We would hope so. Stourton (2006, p. 4) is correct when he says that ‘John Paul was, famously, a bundle of paradoxes; he defied every attempt to put him in an ideological box, and he could be equally bewildering to his admirers and his detractors’. We fall into the first said category of individuals (the admirers) and we do admit to feelings of bewilderment if not utter confusion. It seems that John Paul II allows himself and Polish Catholics the right to actively get involved in changing the world, a right that that he denies to the Latin American Catholics so that they might develop more ‘patience’ and ‘forbearance’ (John Paul II, 1991, Section 25, p. 38; see also Ratzinger and Bovone, n/d, Part VII, Section 3, p. 18). In John Paul II’s (1991, Section 25, p. 38) words, ‘[b]y presuming to anticipate judgement here and now, man [*sic*] puts himself in the place of God and sets himself [*sic*] against the patience of God’. However, by contrast, The Second General Epistle of Peter 3:12 (New International Version (NIV)) states: ‘look forward to the day of God and *speed its coming*’ (emphasis added). Furthermore, John Paul II (n/d, Section 48, p. 92, emphasis original) states: ‘The Church well knows that no *temporal achievement* is to be identified with the Kingdom of God, but that all such achievements simply *reflect* and in a sense *anticipate* the glory of the Kingdom’. The meaning here seems to be that (a) we have to wait for the Kingdom of God, but (b) acts of charity and kindnesses can ‘anticipate’ the Kingdom. However, according to this worldview, ‘political’ acts of class struggle cannot anticipate the Kingdom. There seems to be several

²⁵ When we say this we are assuming that the Solidarity trade union was a genuine proletariat movement whereas the Communist Government of Poland no longer was (or never was). We must insist this for the class struggle to remain the principal contradiction in this particular social struggle. Or we can assert that this was a social struggle where class struggle was not its dominant aspect. In other words, most people just wanted to be free of what they perceived to be an authoritarian regime.

problems here. Firstly, the two categories are not mutually exclusive. An act of charity could also be an act of class struggle, e.g. financially assisting a trade union leader and her/his family; or sheltering and providing for a priest who is also a liberation theologian; or offering assistance to the unemployed or to poorly-paid workers or to striking workers. Indirectly, most acts of charity assist members of the proletariat and so they assist them to further their own interests. Indirectly, then, they are acts of class struggle *independently of the giver's intentions*.

John Paul II might say that the crucial point is your motivation for helping. However, such an argument would not seem to have biblical support. For example, the Parable of the Good Samaritan (St Luke 10:25-37) never discusses the motives of the generous giver. Also, as stated, if the act helps members of the proletariat then the intention does not seem altogether relevant. Stalin took this point to its logical conclusion with his theories of the 'objective meaning of one's acts' and 'objective guilt' (Žižek, 2008). We are reminded of the bumper sticker showing a dancing stripper and the words 'I support single mums'. One of the sources of humour here is the Stalinist insight that the person is making a correct statement: he is, literally, supporting single mums with his payments of cash at the bar or to the women directly (as well as obviously supporting the capitalist club- or bar-owner). Theologically, the idea that charitable acts only 'anticipate' the Kingdom, rather than actually usher in the Kingdom, does not sit well with Jesus' statements that 'if I with the finger of God cast out devils, no doubt the kingdom of God is come upon you' (St Luke 11:20) and 'the Kingdom of God is within you' (St Luke 17:21b).²⁶

²⁶ All scripture quotations are from the King James Version (KJV) unless otherwise stated.

Possibly, the Poles were permitted more leeway than the Latin Americans by the Roman Church hierarchy because the Poles were part of a more disciplined and hierarchical Church (Stourton, 2006). This fact may well lie at the heart of John Paul II's thinking. It was harder to control the Latin Americans because of distance from Rome and the Church hierarchy did not want to see a rebellious Latin American Church split from the European Church, a split which, if it had happened, would have proved as monumental as the split between Roman Catholics and Protestants (Stourton, 2006). However, it puts Latin American Catholics in the infuriating position of not being permitted to legally act against injustices perpetrated by the existing social and economic order.

In *Sollicitudo rei socialis* [*On Social Concern*], John Paul II, a self-educated philosopher as well as a theologian and a Pole who had personally lived under both the Nazi and Polish Communist regimes, provides a much more sophisticated, nuanced, and dialectical analysis of Liberation Theology than that provided by Ratzinger and Bovone (n/d). In John Paul II's documents we can observe him subtly 'co-opting' some of the less politically and theologically confronting doctrines of the liberation theologians as part of the Church's official body of RC Social Teaching. He recognizes that there is truth there, amidst what he sees as distortions and error. Commendably, John Paul II demonstrates his ability to learn from all sources, even though we wish that he had gone somewhat further. However, we wonder whether all such sources are properly acknowledged. Popes tend to cite only scripture; the writings of other popes; and (post-1965) the documents of the Second Vatican Council. John Paul II keeps up this tradition in this document.

The (untrue) myth of the Russian Revolution as being 'violent' is also frequently exploited in Roman Catholic literature. For example, the devotional and educational mini-book *Our Lady of Fatima* refers to 'the

violent Communist revolution' (Etling, 2005, p. 6). In fact, the revolution itself was remarkably bloodless (Mosley, 1972, p. 63; Reed, 1977 [1926]). Mosley (1972, p. 63) lists the total casualties as ten people, whilst Taylor (1977, p. xvi [1964]) lists it as six. Life in Petrograd (formerly St Petersburg) and Moscow, let alone in the rural areas, continued on as normal. Few people were even aware that a revolution had occurred. The bloody violence occurred in the subsequent Civil War and the Bolsheviks could not be blamed for wanting to actively defend their new state against the hostile coalition of local and foreign White Army forces. We cite two paragraphs from A. J. P. Taylor's 1964 Introduction to Reed's (1977) book to make our point (Taylor, 1977, pp. xvi-xvii):

"One sailor was killed when his rifle went off in his hand. Four Red Guards and one sailor were killed by stray bullets. That was the total death toll on this historic day. Most people in Petrograd did not even know that a revolution was taking place. The trams were running, the fashionable restaurants were crowded, the theatres were crowded and Chaliapin was singing at the Opera. The Red Guards kept away from the smart quarter or walked modestly in the gutter.

"The revolutionary military committee had planned a desperate resistance against a fierce attack by the provisional government. There was no such attack. Kerensky fled early in the day, protected by the Stars and Stripes, an anticipation perhaps of the much later Cold War. The other members of the provisional government sat helplessly in the Winter Palace. Red Guards took over the Post Office and the principal government buildings. Adhering strictly to programme, they did not reach the Winter Palace until six in the evening. Even then they did not attack it at all seriously. Red Guards filtered in through the kitchen entrance and took over the Palace without a struggle. At 2.25a.m. on the morning of 8 November Antonov, a member of the military revolutionary committee, broke into the room where the provisional government was still sitting and shouted: 'In the name of the Military Revolutionary Committee I declare you all under arrest'. Such was the end of old Russia".

Old Russia, in the form of Kerensky's provisional government, definitely the 'weakest link' in the chain of European bourgeois governments at the time, ended with a whimper and there was no violence to speak of. The Paris Commune of 1871 put up a much stronger fight in its last hours.

Where is the violent revolution? It seems that the Church is confusing the events of 1905, when Father Gapon's peaceful protestors were fired upon by Tsarist troops (Mosley, 1972, p. 25) with the events of October 1917. The Tsarist Government, even as late as 1905, was a much more dangerous and formidable foe than Kerensky's provisional government, composed of liberals and moderate socialists, was in October 1917. To use a footballing analogy, if the Tsarist Government was Arsenal and the Bolsheviks were Leeds United (or perhaps Millwall), then the Kerensky government was strictly non-league.

Closely connected to the point made in the Roman Catholic literature about the violent nature of the Russian Revolution is the argument that Marxism, by a process of cause and effect, always leads to totalitarianism in practice. This argument ignores the obvious points of difference between Soviet/Polish Communism and Marxism. It also fails to recognize that, in Marxist theory, the term 'the dictatorship of the proletariat' refers to a new socialist revolutionary government being forced to be relatively strict towards those bourgeois forces which aim to destabilize the government and restore capitalism. The dictatorship of the proletariat was never intended to be a permanent totalitarian state with complete licence to persecute and harass anyone coming within its sphere of influence. Russian Bolshevik leaders V.I. Lenin and Leon Trotsky had an original vision for the new socialist Russian state that was liberal and humanitarian; it was to be a place where literature and the arts flourished and where discrimination would no longer be tolerated. Mosley (1972, p. 16) writes that '[h]e [Trotsky] cared, and cared violently, for "the whole effort and intention of mankind"' and 'cared for mankind, ultimately, more than for dogmatic Marxism'. It was why he opposed Stalin and was eventually forced to leave the Soviet Union and why he was murdered by a Stalinist agent in Mexico City in

1940. Trotsky's original humanitarian and liberal vision for socialist Russia can be clearly comprehended and felt even in 2017 by reading his 1924 text *Literature and Revolution* (Trotsky, 2005).

Engels stated clearly at the end of his Introduction (written on 18 March 1891) to Marx's *The Civil War in France* [1871] that if 'you want to know what this dictatorship [of the proletariat] looks like ... Look at the Paris Commune. That was the Dictatorship of the Proletariat' (p. 18). The egalitarian, harmonious, liberal, and peaceable Paris Commune was a short-lived bona fide workers' state that ruled Paris from 18 March (more formally, from 28 March) to 28 May 1871. The Paris Commune was so weak that it was not able to prevent itself being destroyed by French bourgeois forces within the very first three months of its existence. The Paris Commune is the only historical example that Engels provides to illustrate Marx's concept of 'the dictatorship of the proletariat'. How can the Paris Commune be the blueprint for totalitarianism?

Despite all the rhetoric to the contrary in Catholic Social Teaching documents, we believe that Catholicism and Marxism have very similar views on the nature of the human being. For Catholicism, a human being is created 'in the image of God' (Genesis 1:26, 1:27a, 9:6b), with all that entails. For the young Marx of the 1844 *Manuscripts* (and for the French existentialist philosopher Jean-Paul Sartre in *Being and Nothingness* (2006) [1943]), a human being is unique as a knowing, thinking, feeling, perceiving, and acting subject and unique among the animals as one who can create the world around her/him in response to purposeful planning and, by so doing, create herself/himself existentially through the transformation of her/his physical world by labour (Ollman, 1976, chaps. 7-17, pp. 73-127). In Sartrean terminology, a human being is a 'being-for-itself' whereas other animals and created objects are mere 'being-in-

itself' (Sartre, 2006). Both of the perspectives, Catholic and Marxist, are remarkably similar if we unpack what Catholics mean by 'created in the image of God'. It means created in the 'image of God' as a person who, like each of the three persons of the divine Trinity, can plan, think, perceive, feel, and act, and as one who is able to transform the physical world in response to purposeful planning. To be created in the image of God means to have all of the normal characteristics of personhood. We recall that the biblical character Cain was asked to 'till the ground' (Genesis 4:12) and, before that, Adam and Eve were commanded to 'replenish the earth, and subdue it: and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth' (Genesis 1:28). Of course, human beings are following God the Father's example here since 'God blessed the seventh day, and sanctified it: because that in it he had rested from all his work which God created and made' (Genesis 2:3). We see that planning, knowing, thinking, perceiving, and labouring are integral to both views about the nature of human beings. Both views point to the uniqueness of human beings and for the same reasons. Although Catholics might believe that the characteristics of human beings were given directly by God, while many Marxists perceive the characteristics to be evolutionary traits, this point should not be given undue emphasis. The more important point is the similarities in the two points of view.

Our conclusion is that it is completely possible, although at times existentially challenging, to be a Roman Catholic-Marxist. We have seen how John Paul II subtly incorporated some of the key ideas of the liberation theologians into the official body of Roman Catholic social teaching after 1986 (such as the 'preferential option for the poor' and 'sinful structures'). The lack of spiritual ballast was probably one of the weaknesses of the Soviet and Eastern European states. It is interesting to

note that the last living former leader of the Soviet Union, Mikhail Gorbachev, introduced John Paul II to his [Gorbachev's] wife Raisa as 'the greatest moral authority on earth'. In 2009, twenty years after the fall of communism in the Soviet Union, international newspapers quietly reported that Gorbachev had been observed praying at the tomb of St Francis of Assisi. Is this an admission by the now elderly former leader of a once great state that the founding Bolsheviks might have, officially, got it wrong about 'religion'? It is, indeed, the spirit of a world without spirit. The words were there in the canon all along.

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26 April 2010 (as amended 26 October 2017)

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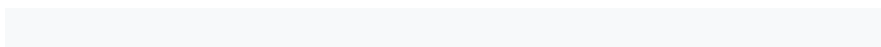
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